1873

SUPREME COURT OF THE UNITED STATES.

No. ~~295.~~ 183

THE UNITED STATES, APPELLANTS,

vs.

THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE.

APPEAL FROM THE DISTRICT COURT OF THE UNITED STATES FOR THE NORTHERN DISTRICT OF CALIFORNIA.

GOVERNMENT PRINTING OFFICE.

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1 *Transcript of the proceedings in Case No.* 286.

THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE, claimants,
vs.
THE UNITED STATES, defendants.
} For the place named "Pueblo lands."

2

3 *Index to proceedings before board of land commissioners.*

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

Be it remembered, that on this fourteenth day of July, anno Domini one thousand eight hundred and fifty-two, before the commissioners to ascertain and settle the private land claims in the State of California, sitting as a board in the city of San Francisco, in the State aforesaid, in the United States of America, the following proceedings were had, to wit:

The petition of the mayor and common council of the city of San Jose for the pueblo lands was presented, and ordered to be filed and docketed with No. 286, and is as follows, to wit:

(*Vide* page 5 of this transcript.)

Upon which petition the following subsequent proceedings were had in their chronological order, to wit:

SAN FRANCISCO, *December* 30, 1852.

In case No 286, the mayor and common council of the city of San Jose for pueblo lands, the deposition of Antonio Maria Pico, a witness in
4 behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(*Vide* page 23 of this transcript.)

SAN FRANCISCO, *January* 12, 1853.

In the same case the deposition of Mariano Castro, a witness in behalf of the claimants, taken before Commissioner Harry J. Thornton, was filed.

(*Vide* page 19 of this transcript.)

SAN FRANCISCO, *January* 15, 1853.

In the same case the deposition of Salvio Pacheco, a witness in behalf of the claimants, taken before Commissioner Hiland Hall, was filed.

(*Vide* page 20 of this transcript.)

SAN FRANCISCO, *Sept.* 28, 1853.

Case No. 286 was ordered to the foot of the docket.

SAN FRANCISCO, *September* 26, 1854.

In the same case the counsel for the claimant, Mr. Crockett, read the papers in evidence, and the case was continued for to-morrow.

In the same case the counsel for the claimants filed the following stipulation, to wit:

(*Vide* page 37 of this transcript.)

SAN FRANCISCO, *September* 27, 1854.

In the same case the deposition of Thomas O. Larkin and Josiah Belden, witnesses in behalf of the claimants, taken before Commissioner
5 Peter Lott, the last with a printed document marked X, P. L. annexed thereto, were filed.

(*Vide* pages 26 and 28 of this transcript.)

In the same case Mr. Crockett, counsel for the claimants, opened the argument, followed by Mr. Hawes for the law agent, and continued for further argument to-morrow.

SAN FRANCISCO, *Sept.* 28, 1854.

In the same case the depositions of Thomas E. Evershed and Joseph B. Wells, witnesses in behalf of the claimants, taken before Commissioner Peter Lott, were filed.

(*Vide* pages 35 and 37 of this transcript.)

In the same case argument by Mr. Hawes in behalf of the U. S. law agent resumed and concluded; further argument by the claimant continued until Tuesday next.

SAN FRANCISCO, *October* 3*d*, 1854.

In the same case argument in behalf of the claimants concluded, and case submitted, in conjunction with case No. 287, Charles White *et al.*,
6 for the pueblo land of San Jose, and taken under advisement by the board.

SAN FRANCISCO, *Feb'y* 5, 1856.

In the same case Commissioner S. B. Farwell delivered the opinion of the board confirming the claim.

(*Vide* page 165 of this transcript.)

And the following order was made, to wit:

(*Vide* page 168 of this transcript.)

Petition.

STATE OF CALIFORNIA, *ss:*

To the United States commissioners for the adjudication of private land claims in the State of California:

The petition of the mayor and common council of the city of San Jose respectfully showeth, that on the twenty-ninth of November, in the year 1777 there was established in what is now known as the valley of San Jose, within the limits of the present county of Santa Clara, in the State of California, by Senor Don Philip Neri, then the governor of the province
7 of Upper California, thenceforth known as the pueblo of San Jose de Guadalupe; that at the time of the establishment of the said puebla Upper California was chiefly inhabited by wild and and savage tribes of Indians, and it was the policy of Spain, to which the said province then belonged, to foster and encourage new settlements of civilized people, both because such new settlements tended to augment the general welfare and to support and sustain the missions then recently established in California for the conversion and civilization of the Indian tribes; that in accordance with this policy instructions were given by the viceroys to the governors of

the said province touching the establishment of pueblos within the same. That the pueblo of San Jose de Guadalupe was established by competent authority will fully appear by reference to the communication addressed by Senor Barclay y Usula, the viceroy of the king of Spain, to Senor Don Philip Nive, the governor of California, under date of the 22d of July, 1778,
8 a certified copy of which is hereunto filed as part of this petition, marked Exhibit "A," and a translation thereof, marked "Exhibit B," and also by reference to a communication under date of the 19th July, 1779, from E. Cav'a de Croix, the commanding general of the province, to the governor of California, enclosing to the said governor a certified copy of a royal order of the 6th March, 1779, approving in express terms of the establishment of said pueblo. Certified copies of the said communication and of the said royal order are herewith filed as part of this petition, marked respectively "Exhibit C" and "Exhibit D," and a translation of said documents marked "Exhibit E."

The establishment of said pueblo is again distinctly recognized in the communication from the said commanding general De Croix to Senor Rivera y Moncada, commander of recruits, under date of December 27, 1779, a certified copy of which is herewith filed as part of this petition, marked Exhibit F, and a translation thereof, marked "Exhibit G," and also in a communication from the same officer, under date of the 7th February,
9 1780, to Don Martin de Majorgu, a certified copy of which is herewith filed as part of this petition, marked Exhibit H, and a translation thereof, marked Exhibit I. If further evidence of the establishment of said pueblo be needed, it may be found in a communication from the said De Croix to the governor of California, under date of 10th February, 1780, a certified copy of which is herewith filed as part of this petition, marked "Exhibit K," and a translation thereof, marked "Exhibit L."

Your petitioners further show that the said pueblo was established and founded at the periods aforesaid, in accordance with the laws, usages, and customs of Spain at that time in force in the then province of California, and in conformity with the royal regulations and decrees for the establishment and government thereof. They further show, as hereinafter set forth, that the founding and establishment of the said pueblo was expressly sanctioned by the royal authority of the king of Spain, and was in all respects in conformity with the laws and usages of Spain relating to the establishment of such infant settlements.

10 Your petitioners further show that one of the chief objects of the government in the establishment of pueblos of California was to encourage agriculture and the breeding of cattle, and in the then condition of the Spanish government were best to be promoted by the founding of pueblos or villages, granting to the inhabitants thereof for their common use extensive tracts of land, for their cattle; that in pursuance of this policy there was granted by the governor of California to the said pueblo, or the inhabitants thereof, for their common use at the time of the establishment thereof, an extensive tract of land around and contiguous to the said pueblo, to be used as pasture grounds for their cattle, and to be reserved solely for that purpose; that breeding of cattle was then the chief and almost the only business in which the inhabitants of Upper California were engaged, and it was from their herds that their means of subsistence were principally derived; that as the inhabitants resided chiefly in pueblos and villages, it was indispensable, not only to their peace and comfort, but to their very existence, that extensive pasture lands for their common
11 use should be assigned to the inhabitants of these pueblos or villages; that in view of the necessity the government of Spain made liberal grants of land to all pueblos in California for these purposes, and there was

accordingly granted by the governor of California, as is hereinbefore stated, to the said pueblo de San Jose de Guadalupe a large tract of land as a pasture-lot for the common use of the inhabitants. The particular boundaries and description of the said tract so granted will be made fully appear by the official documents hereinafter particularly described and set forth.

Your petitioners further show that the original boundaries of the said commons or pasture lands as defined at the time of the founding of the said pueblo were as follows, to wit: Beginning at a live-oak which formerly stood on the bank of the river Guadalupe at its embarcadero; thence, in a northeasterly direction, two leagues eight hundred and seventy-three varas, to a live-oak, the said line passing 410 varas south of the house of the citizen Jose Higuera; thence in a southeasterly direction, passing
12 across or through the place known as the "Los Buelles," "Pala," "San Felipe," "Las Animas," to the Arroyo de las "Llagas;" thence, in a westerly direction with the said "Arroyo de las Llagas," two leagues eight hundred and seventy-three varas; thence, in a northwesterly direction, to a live-oak on the coast range of mountains, about midway between the Arroyo de las Llagas in a northeasterly direction, to the place of beginning; the length of the eastern line of the said survey being about eleven and a half leagues, and the length of the northern and southern lines being each about two leagues eight hundred and seventy-three varas.

Your petitioners further show that these were the ancient boundaries and defined as such at the time of the founding of the said pueblo, and notoriously recognized as such ever since, except as to the western boundary line, which divides the lands of the said pueblo from those which appertain to the mission of Santa Clara, concerning which last-mentioned line there have been some disputes between the inhabitants of said pueblo and the reverend padres of the said mission as
13 far back as the year 1800. These disputes have grown to be of so serious a character as to demand the interposition of the viceroy of New Spain; and, accordingly, in that year, Don Sena Magresna, the viceroy, in communication with the provisional governor of California, informed him that he (the viceroy) had decided that for the future the river Guadalupe should serve as the boundary or dividing line between the pueblo and the mission, leaving to said pueblo part of the mountain that *this* lies along the coast, and which is on the other side of the dividing river, and in order that they may have a provision of timber and wood, and directing the said provisional governor, for the purpose of preventing these disputes in future, to designate by suitable landmarks and fixed monuments that part of the said mountain or coast which should be assigned to said pueblo. In pursuance of this authority Don Josef Arguello, the said provisional Governor of California, in conjunction with Friar Maitin de Landarta, appointed for that purpose by the Rev. Padre, president of the said mission, proceeded to set apart for the use of the said pueblo a portion of the said mountain,
14 all of which, together with the part thus designated, will appear by reference to a report of the said Arguello under date of the 24th of July, 1801, which is herewith filed as part of this petition, marked "Exhibit M," and a transcript thereof, marked "Exhibit N." These proceedings, however, did not put an end to said disputes; on the contrary, the said dividing line continued to be a subject of controversy between the said pueblo and mission up to the year 1809, as will appear from the official documents herewith filed as part of the petition, marked "Exhibit O," and translation thereof, marked "Exhibit P," and other like documents herewith filed as parts hereof, marked "Exhibit Q," and a translation thereof, marked "Exhibit R," long subsequent to the period, however, and after Mexico or New Spain, including California, had revolted from the crown of Spain and established itself as an independent

republic, to wit, in the year 1837. Doubts, it appears, still existed as to the precise boundaries of the said pueblo lands, and several persons in the
15 year last aforesaid having applied to the ayuntamiento, or town council, of the said pueblo for permission to occupy in severalty certain portions of what the inhabitants deemed to be common or pasture lands of the said pueblo, Manuel Pinto and other inhabitants of the said pueblo, on the 21st day of December, 1837, presented to the said ayuntamiento their remonstrance against the said proceedings, claiming that said lands belonged to the inhabitants in common, and not to be occupied in severalty, and praying that proper steps be taken to ascertain definitively the boundaries of the said lands, and that the same be designated by fixed monuments, so that there might be no dispute.

In pursuance of his duty in that behalf, Juan Alvarez, the alcalde of the said puebla, and the presiding officer of the said ayuntamiento, on the 23rd day of December, 1837, transmitted the said petition to Juan B. Alvarado, the provisional governor of the department of Upper California, with a request that he would cause the boundaries of the common lands of the said pueblo to be distinctly ascertained and marked. On the following
16 day, to wit, on the 24th of December, 1837, the said provisional governor, by his official decree of that date addressed to the said alcalde, requiring the said ayuntamiento to appoint a commission of its own members or of other persons for the purpose of making a plan or map of the lands laid out as the legal endowment of the pueblo, first obtaining the proper information in regard to the neighboring estate, and with the most accurate description of the distance and name of owner, and the springs, groves, &c., contained therein. In accordance with the said decree the said ayuntamiento, on the 20th of March, 1838, appointed a commission for the purpose aforesaid, consisting of Guillermo Castro, Guillermo Gulnac, and Salvio Pacheco, who, being duly sworn, organized themselves into a commission in the most formal manner, on the 22d day of March, 1838, and proceeded in the discharge of their duties. On the twenty-fifth day of the same month they went in person upon the said ground with a view to ascertain the said boundaries, and having made an actual survey thereof, they designated and fixed the said boundaries according to the ancient monuments and landmarks then
17 found existing on the said land, and which were recognized and pointed out the ancient inhabitants as the true and just boundaries of the said pueblo lands, commencing at a live-oak, two leagues eight hundred and seventy-three varas in a northeasterly direction, passing through the sierra or range of mountains which are called "Los Buelles," "Pala," "San Felipe," "Las Animas," and "Aguages de las Llagas." The length of the said line was about eleven and a half leagues, and at each end the said line, and in the middle of the place called the "Pala," they caused to be erected the corresponding landmarks of stone in a substantial manner; returning to the beginning point, they proceeded to run the northern line of said tract in accordance with what was acknowledged to be the lands belonging to the aforesaid pueblo. From the said beginning point the said northern line was run by said commissioners in a southwesterly direction two leagues eight hundred and seventy-three varas, to the last live-oak tree that was then to be seen on the bank of the river Guadalupe at its embarcadero, said
18 line passing 410 varas south of the house of Jose Higuera. The said commissioners also ascertained and decided the southern boundary of said tract to be the Arroya de los Llagas, the length of the said southern line being equal to the length of the northern line, to wit: two leagues eight hundred and seventy-three varas, commencing at the southern end of the eastern line of said tract and running thence in a westerly direction with the said Arroya de Llagas the distance aforesaid, to wit: two leagues eight

hundred and seventy-three varas. In ascertaining the western boundary of the said tract the proceedings of said commissioners are involved in some confusion; but your petitioners insist that the said line, as established by said commissioners and which your petitioners claim was in fact the true line was as follows, to wit: Beginning at the live-oak aforesaid on the bank of the river Guadalupe at its embarcadero, thence in a southwesterly direction to a live oak on the coast range of mountains about midway between
19 the mission of Santa Clara and the Arroyo de las Llagas, and thence in a southeasterly direction to the western terminus of the south line of said tract, as hereinbefore described. Having concluded the said survey and ascertained the said boundaries as aforesaid, the said commissioners caused a map or diagram of the same to be made, exhibiting the said boundaries truly and accurately as ascertained by them, which map, together with their report in writing, they transmitted in the said month of March, in the year 1838, to the ayuntamiento of the said pueblo, and in their said report it is stated that they had ascertained the dividing line between the said pueb lo and the said mission of Santa Clara to be much farther towards the west than it had then recently been reported to be, and they direct proper measurements to be established to designate the true line, all of which will more fully appear by reference to a certified copy of the said proceedings herewith filed as a part of this petition, marked "Exhibit S," and a translation
20 thereof, marked "Exhibit T." Your petitioners further show that at the date of said survey there were many old inhabitants of the said pueblo who were perfectly familiar with the ancient boundaries of the said lands, and that the said commissioners were themselves inhabitants of the said pueblo, who from their infancy had known the said lands and well acquainted with the local and visible monuments of which said boundaries were designated. They insist, therefore, that the said survey thus made under the authority of the governor of California, and with the consent of the ayuntamiento of the said pueblo, is conclusive of the extent and boundary of the said pasture lands or commons of the said pueblo.

Your petitioners further show that on, and for many years prior to, the 7th day of July, 1846, the said pueblo or village of San Jose de Guadalupe existed on the said tract, and so continued to exist up to and after the date of the treaty of Guadalupe Hidalgo; that from the foundation of the said pueblo, in the year 1777, up to the present time the tract of land
21 hereinbefore described has been notoriously known and recognized as the commons or pasture ground of the said pueblo, and on the 27th of March, in the year 1850, by an act of that date entitled "An act to incorporate the city of San Jose," the legislature of the State of California incorporated your petitioners by the name and style of "the mayor and common council of the city of San Jose," and by the 23rd section of the same act it is provided in substance that your petitioners shall succeed to all the legal rights and claims of the pueblo of San Jose, and shall be subject to all the liabilities incurred and obligations created by the ayuntamiento of said pueblo, provided that said corporation shall not exercise municipal authority over any of said pueblo lands not embraced in the boundaries of the said city, except to rent, lease, or sell the same, all of which will appear by reference to act which is here referred to as part of this petition, by virtue of which act your petitioners claim they have succeeded to all the rights,
22 title, and interest of the said pueblo and ayuntamiento in and to the said lands, and that the same of right belongs to your petitioners; wherefore they pray that they may be confirmed in their title thereto by your honorable board, so that a patent may issue to them in pursuance of law.

Your petitioners further state that they have understood that several per-

sons pretend to claim some portion of said land by virtue of pretended grants from certain persons claimed to have been governors of California, but your petitioners are ignorant of the names of these claimants, nor do they know what particular portions of said tract the several claimants pretend are covered by these alleged grants; but your petitioners aver that if there be any such pretended grants they are either simulated and fraudulent, or, if genuine, wholly null and void, the said governors having no authority in law to grant away the lands of said pueblo.

If it shall hereafter appear that any such claims shall be preferred
23 before your honorable board, your petitioners pray that they may be allowed to intervene in the said claims and thus prevent the title to said lands from being clouded by fictitious and groundless claims.

They pray for all such general and equitable relief in the premises as the ends of justice may require, and as their cause may demand.

JOHN WILSON,
Att'y for Petitioners.

Filed in office July 14, 1852.

GEO. FISHER, *Sec'y.*

Dep. of Man'o Castro, in behalf of claimants.

SAN FRANCISCO, *Jan'y 11th*, 1853.

On this day, before Commissioner Harry J. Thornton, came Mariano Castro, a witness in behalf of the claimants, mayor and common council of the city of San Jose, petition No. 286, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

Questions by claimants.

24 Question 1st. What is your name, age, and place of residence? and how long have resided there?

Answer. My name is *Mariano* Castro; my age is sixty-nine years; my residence is Santa Clara, and I was born in California, at the presidio of San Francisco.

Question 2d. When did you first become acquainted with the pueblo of San Jose?

Answer. Since my boyhood I have known it.

Question 3d. Had the pueblo of San Jose any lands or not? And if it had, where were those lands situated?

Answer. The pueblo had lands, and have had them ever since the foundation of the town.

Question 4. Do you, or not, know whether the boundaries of those pueblo lands were ever run off or measured?

Answer. I do not know.

Question 5. Were there any marks or monuments showing the
25 limits of the pueblo lands of San Jose when you first knew it?

Answer. The barranco or bluff is one of the monuments, the road to Santa Cruz is another, and Las Llagas is another. The barranco that I speak of is near the Agua Caliente; it may be a thousand or five hundred varas distant for the Lima.

Question 4. How long have you known this barranco as one of the limits of the pueblo?

Answer. I have known it as such from my boyhood.

Question. How long have you known Las Llagas as one of the boundaries of the said pueblo?

Answer. I have known it as such from my boyhood.

Question. Does the Santa Cruz road cross the hills or mountains?

Answer. It does; it crosses the hills at the portezuelo, which is one
26 of the boundaries.

Cross-questions by U. S. law agent.

Question 1st. What do you mean when you say the pueblo had the lands in those limits?

Answer. I mean that the government of Spain gave the lands to the pueblo; they laid it off, and put their landmarks.

Question 2. Did the pueblo rent or sell or give these lands to individuals?

Answer. The pueblo has not sold any lands, because they could not sell it; they have not rented it; they have granted it by order of the government to the inhabitants, for settlement and cultivation.

his
MARIANO + CASTRO.
mark.

Sworn to and subscribed before me this 11th day of January, 1853.

HARRY J. THORNTON, *Sec'y.*

Filed in office Jan'y 12, 1853.

GEO. FISHER, *Sec'y.*

27 *Dep. of Salvio Pacheco, in behalf of claimants.*

San Francisco, *Jan'y 14th*, 1853.

On this day, before Com. Hiland Hall, came Salvio Pacheco, a witness in behalf of the mayor and common council of the city of San Jose, petition No. 286, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

In answer to questions by counsel for the claimants the witness testified as follows:

Answer. My name is Salvio Pacheco; my age is fifty-five years, and I reside in the county of Contra Costa; I resided in the pueblo of San Jose formerly, and have known it ever since my boyhood; I was appointed by the government to lay off the pueblo lands of San Jose; the other commissioners were William Gulnac and Guillermo Castro; we made a written report to the government of the territory in writing, and a copy was filed in the archives of the town of San Jose. I had before that heard from my father and grandfather that at the time of the settlement of the town, that the boundaries were from the white bluff near the mission of San Jose
28 to the crossings of the road of Santa Cruz, at a point called "Cuesta-de los Gatos;" I did not hear from them any other boundary; but afterwards I understood that at the instance of the priest of Santa Clara the river Guadalupe was established as a boundary, and we, as commissioners, in accordance with that, established said river as a boundary.

I did understand from my father that "Las Llagas" was a boundary of the pueblo; when the commissioners established the boundaries we formed landmarks, viz: the source of the river Guadalupe, and El Punto de los Capitancillos; at the places we found heaps of stones, placed there as landmarks by our forefathers, to mark the boundary between the mission of Santa Clara and the town. We did not find other landmarks as the boundary of the town. We ascertained the other boundaries from common report, while the embarcadero of Santa Clara, on one side, and the arroyo of the San Francisco de las Llagas on the other. The inhabitants of San Jose

owned the lands within these boundaries from the time I first knew
29 the town.

In answer to inquiries by the associate law agent the witness testified as follows:

The inhabitants of San Jose occupied the pueblo lands with thousands of head of cattle and horses, and made use of the timber for building, and of the wood for fuel, and cultivated portions of the land. The land was occupied by cattle and horses of the inhabitants in common, and once in a week or ten days they were, by order of the magistrate, collected, and the owners separated them, each taking his own.

The inhabitants, from year to year, as they wanted, did, by leave of the magistrate, enclose small parcels of the land for cultivation. A parcel was sometimes cultivated by one man for one year, and abandoned by another parcel in some other place. I do not know of any case in which land that had been vacant has been sold; but there were cases in which land had been lent by the magistrate for temporary occupation; the individuals had applied to the governor, and obtained grants from him.

SALVIO PACHECO.

30 Sworn and subscribed before me.

HILAND HALL, *Com'r.*

Filed in office Jan'y 15, 1853.

GEO. FISHER, *Sec'y.*

Dep. of A. M. Pico, in behalf of claimants.

On this day, before Commissioner Harry J. Thornton, came Antonio Maria Pico, a witness in behalf of the claimants, mayor and common council of the city of San Jose, petition No. 286, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

Questions by claimants.

Question 1. What is your name, age, and place of residence; and how long have you resided there?

Answer. My name is Antonio Ma. Pico; my age is 44 years; and I reside at the pueblo of San Jose, where I have lived twenty-two years.

31 Question 2. During your residence at San Jose what offices, if any, have you had under the Mexican authority?

Answer. I have held the office of alcalde from the years 1835 to 1849, in different years within those periods.

Question 3. Was there, or not, while you were holding said office, any attempt to run off or make out the lines and boundaries of the pueblo of San Jose? And if so, what?

Answer. While I was alcalde there were complaints upon the subject of the uncertainty or want of limits to the pueblo by the owners of cattle; but whilst I was in office no measures were taken to run off and fix the boundaries.

Question 4. Do you know, or not, of any measures being taken, at any time, to mark off the pueblo lands of San Jose? And if yea, state by whom, when, and what those measures were.

Answer. During the administration of Gov. Alvarado an order was received from him to lay off the pueblo, when it was done accordingly,
32 by the ayuntamiento having appointed commissioners, who were Don Salvio Pacheco, William Gulnac, Guillermo Castro, Julio Siberean, Francisco Garcia, for that purpose.

Question 5. Do you know whether or not the commissioners marked off and defined the boundaries of the pueblo lands? And if so, what were the boundaries of the pueblo lands? And if so, what were the boundaries so established?

Answer. I do know that the commissioners marked off the said boundaries; they commenced at a loma mark on the mountain, as I was informed. The southern boundary of the said pueblos as the Arroyo de las Llagas. To the east of this arroyo, and on the mountain, I was told by the surveyor that they erected a stone monument, but I never saw it. From that monument the line was northerly, along the lower range of hills to the Rancho las Calaveras. This line was by a place called Las Animas; also the place called Canada de Oso, and by San Felipe. From the said rancho of Calaveras the boundary line runs towards the Rancho of Alviso, up to the
33 river Guadalupe; from thence the line was in a southerly direction, to the headwaters thereof, the river being the boundary line; thence towards the mountain, to the top thereof, to a live-oak tree, which is to be seen from the town of San Jose. From this live-oak the boundary line runs along the mountain to the head of the Arroyo de las Lagas.

Question 6. State whether or not the boundaries you have given have *have* been notoriously recognized as such since the establishment thereof by the commissioners.

Answer. The boundaries which I have above described have always been recognized by the commissioners since they were laid down, and as alcalde I always noticed and regarded them.

Question 7th State whether Dolores Pacheco and William Gulnac, who were concerned in the survey, are living or dead.

Answer. They are both dead. Dolores Pacheco was alcalde at the time of the appointment of the commissioners to make the survey.

34 *Cross-questions by the U. S. law agent.*

Question 1st. What was done with the report made by the commission to survey of the said pueblo?

Answer. They were put in the archives, and I suppose must be there.

Question 2d. Did the government of California make any decree or other resolution upon the subject of the limits of San Jose after the date of this report?

Answer. I don't know anything about any such decree or resolution of the government of California if any was ever made.

(U. S. law agent present.)

ANTONIO MA. PICO.

Filed in office Dec. 30th, 1852.

GEO. FISHER, *Sec'y.*

35 *Dep. of Thos. O. Larkin, in behalf of claimants.*

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *Sept.* 27, 1854.

This day came before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Thomas O. Larkin, a witness on behalf of the claimants in case No. 286 and 287 on the docket of said board, and said witness, being sworn, deposed as follows:

(The U. S. law agent is present.)

Questions by Judge Wells, attorney for claimants.

1st question. What is your name, age, and place of residence?

Answer. My name is Thomas O. Larkin; my age, 52 years; my residence, San Francisco, California.

2d question. How long have you lived in the State of California?

Answer. I have lived here, with some slight interruption, about 22 years.

3d question. Have you been frequently at San Jose during that pe-
36 riod and you well acquainted with that place?

Answer. Between 1842 and 1846 I was often there, and was well acquainted with the place.

4th question. State whether there was a town at the place called the pueblo of San Jose prior to July 7, 1846. If yea, state what was about the amount of its population and how it was governed.

Answer. There was a town there ever since 1832 to my knowledge. Just before July, 1846, I should think the population of the place was about 800 or 1,000 inhabitants. It was governed by 2 alcaldes and a syndico, and I do not remember whether there was a town council or not. I know that they had a full court there as they had in any of the towns in California. I am under the impression that there was a town council.

Cross-examined by U. S. law agent.

1st question. Do you know who were the officers of the town of San Jose in 1849, 1850, and 1851?

37 Answer. I think that Antonio Maria Pico, Charles White, and one Judge Demmicky held offices there about that period. I cannot now remember the particular dates of their service, and although I knew most of the officers at that time, I cannot now recollect them.

THOMAS O. LARKIN.

Subscribed and sworn to before me Sept. 27, 1854.

PETER LOTT, *Com'r, &c.*

Filed in office Sept. 27, 1854.

GEO. FISHER, *Sec'y.*

Dep. of Josiah Belden, in behalf of the claimants.

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *Sept.* 27, 1854.

This day appeared before the board of U. S. land commissioners of said State, at their sitting in full board, in their court-room, in San Francisco, Josiah Belden, a witness on behalf of the claimant in cases No. 286 and 287 on the docket of the board. Witness was sworn by the secretary, and
38 testified in chief after the 1st question in cross-examination was propounded by the law agent. The board directed the remainder of the deposition to be taken by the commissioner for such purpose, Peter Lott, at chambers, which was done accordingly the same day without any interval of time.

The U. S. law agent attended, and the final oath was administered by said Commissioner Lott.

Questions by Mr. Crockett, attorney for the claimants.

1st question. What is your name, age, and place of residence?

Answer. My name is Josiah Belden; my age, 39 years; my residence, San Jose, California.

2d question. State whether you have examined the archives remaining in San Jose, in the alcalde's office, for documents relating to the title of the pueblo lands of San Jose, and what was the result of your examinations?

39 Answer. I have looked over the documents there some. I do not know whether I have ever made a thorough examination. I know that the common council of San Jose once employed a man who understood the Spanish language to examine the archives with a view of arranging them and putting them in order and of ascertaining what documents there were relating to the pueblo lands. The person so employed was named Lovett, I think. He made what he said was a thorough examination of the papers in the archives, and arranged them all in proper order. I understood that he could not find any papers there relating to the pueblo lands more than they before had, except a paper making grants of some suerte lots to various individuals. He stated there were no other papers to be found then throwing any further light upon the title to pueblo lands.

3d question. In what condition were the archives of the pueblo at the time said Lovett said appointment to arrange them and examine them?

40 Answer. I believe up to that time, and for some years before, they had been very loosely kept; very little care had been taken of them. I was mayor of the city one year, and I was also one year a member of the city council, and had few opportunities of knowing the condition of the archives during those periods. Old residents have told me that many old documents have been lost there owing to the loose manner in which the archives were kept. I have resided permanently in San Jose since about April, 1848. I was frequently there from 1841 to 1848.

4th question. Did the town of San Jose exist in (1841) eighteen hundred and forty-one, and from that time forward?

Answer. Yes, there was a town there in 1841, an alcalde and other town officers.

Cross-examined by U. S. law agent.

1st question. Did you know of a combination or association of gentlemen at San Jose, existing in the year 1849, familiarly and in common par-

41 lance called "Forty Thieves?"

(This question objected to by claimant's counsel as irrelevant and illegal. The board, upon hearing the objections, ruled that the question may be answered subject to the objection.)

Answer. I know that certain gentlemen agreed together, in the year 1849, I think, to purchase a building for the use of the legislature, which was expected to assemble there in the ensuing winter, and also for a city hall, under an understanding with the ayuntamiento of the pueblo of San Jose that they (these gentlemen) should use their funds and credit in the purchase of said building and transfer it to the city of San Jose, and take the lands of the city of San Jose, with a mortgage on her property, to secure to them the payment back of what they should have paid for said building; that the arrangement was consummated, and the ayuntamiento of San Jose executed a bond to these gentlemen, with a mortgage, I think, on all the real

42 estate belonging to the pueblo as such security. That bond was not paid according to agreement, and those gentlemen instituted a suit

in the bond and mortgage against the city. Judgment was rendered in the district court, execution issued, and the property of the city levied upon and sold by the sheriff to satisfy the same. Some of the plaintiffs in that action became the purchasers at said sheriff's sale. I believe these are the same gentlemen to whom the law agent refers as being called in local parlance "Forty Thieves."

2d question. State the number and names of the gentlemen you have spoken of in your last answer, and how many and who of them were purchasers at said sale?

Answer. There were some 17 or 18 of them. I remember that they were the most responsible men about the place. Joseph Aram, Jacob D. Hopper, Peter Query, Charles White, Isaac Barham, Peter Davidson, Dr. C. Cob, Groves Cook, Frank Lightston, William McCalcheen, James T. Reed,
43 and myself were the members, and there were others whose names it would require time for me now to recollect. The purchasers at the sale were a portion of these I have named. I presume the record shows who they were.

3d question. Who advanced the money that entered into the consideration of the mortgage referred to in case No. 287?

Answer. The money was advanced by those 17 or 18 gentlemen of whom I have spoken, so far as money was paid down; they paid part and gave their notes for the balance; they paid equally in proportion to their number; I think they paid down $17,000—one half of the whole amount. This was paid to Sansaivane and Rochin, the owners of the building.

4th question. Was the second payment of $17,000 ever paid?

Answer. The notes of the 17 or 18 gentlemen of whom I have spoken were given to Sansaivane and Rochin in two separate notes, each for one-
44 half of the $17,000. One of these notes was paid to Sansaivane by the city, who took a credit of the amount on the bond held by the 17 or 18 gentlemen. The other note given by Rocnin I purchased. I sued the 17 or 18 gentlemen on this note; and the $17,000 note, which they gave me for the loan, I have partly paid, but not yet fully.

5th question. How many of the 17 or eighteen gentlemen mentioned by you held office in the city of San Jose at the time of the purchase of the building, and the translation of which you have spoken? and what offices?

Answer I think there were two or three of them in the common council at that time; but I do not distinctly recollect who they were, and do not recollect of any of the others being in office then, at the time.

6th question. What offices existed in the city of San Jose at that time?

Answer. There was an alcalde and an ayuntamiento, probably a
45 syndico, and I do not now recollect of any other.

7th question. Who was the alcalde?

Answer. I think the alcalde was named Conroy, and he was not one of the "17 or 18 gentlemen" referred to.

8th question. Who composed the ayuntamiento at that time, and how many members?

Answer. I cannot speak with certainty of the number, but I think it was usually composed of some 7 or 8 members. I think Peter Davidson was one of them, and I think Pedro Davidson was one of them, and I cannot speak with certainty of any others. I think Jacob D. Hopper was one, though I may be mistaken.

9th question. Were there not a majority of that ayuntamiento at that time of the "17 or 18 gentlemen" spoken of?

Answer. I do not know.

10th question. Do you know anything about an original paper, a transla-

tion of which, in print, is hereto annexed, and marked "X, P. L.," com-
46 mencing "Don Pedro Fages, lieutenant colonel of the royal army and governor of Old and New California, &c.," and ending with the name of "Pedro Fages," attached to a certificate dated Dec. 31st, 1783? If yea, state what you know about it.

Answer. I have no recollection of ever having seen such a document or an original of which this is a translation.

Re-examined by Judge Wells, att'y for claimant.

1st question. Is there and has there been what is called a squatter organization about San Jose?

Answer. I have understood that of the citizens.

JOSIAH BELDEN.

Subscribed and sworn to before me Sept. 27, 1854.

PETER LOTT, *Commissioner, &c.*

The interrogatories propounded by the U. S. law agent in the cross-examination in the foregoing deposition were each and all objected to at
47 the time of their being asked, by the counsel of the claimants present.

PETER LOTT, *Comm'r, &c.*

Filed in office Sept. 27, 1854.

GEO. FISHER, *Sec'y.*

Dep. of Jos. P. Wells, in behalf of claimants.

Joseph B. Wells, being sworn, deposes and says that he is one of the counsel employed by the claimants in the case; that he was so employed by said claimants in the spring or early part of the summer 1852; that he proceeded from the archives in the office of the surveyor general of California all the transcripts that are certified by the said surveyor general and filed as exhibits in said cause; that in order that he might get all the documents in said surveyor general's office which could affect the title of the claimants to the lands in question, he employed Wm. C. Walker, who he believes was a good Spanish scholar and fully competent to make a thorough examination of said archives; that the said Walker and affiant did search
48 diligently the said archives, and that they were assisted by the clerk and keeper of said archives, and that the documents certified and filed as exhibits in said cases were all that he and said Walker could find that they thought could affect the title to said ground. He states that the translations on were made by the said Walker. He says that since that examination he has repeatedly requested the clerks and keepers of said archives to try and find other documents relating to said title. He states that in 1853 he, affiant, was at San Jose, and requested William L. Smith, of the claimants, to cause a further examination of the records contained in the office of the mayor of that city—where the records of the ayuntamiento, formerly of said city or town, were supposed to be—and that he heard the then mayor, White, report to said Smith that, after a careful examination, he could find no other papers relating to said land. He states that he, affiant, does not know of the existence of any other documents or papers affecting the title of said land that are not on file in said cases.

JOSEPH B. WELLS.

49 Sworn and subscribed before me this 28th day of September, 1834.
ALPHEUS FELCH, *Commissioner.*

Stipulation.

It is agreed and stipulated that the foregoing affidavit of Joseph B. Wells may be read in cases Nos. 286 and 287—may be filed and read in evidence in said cases in the same manner and under the same rules as if the same had been taken in the form of a deposition on due notice.

Sept. 28th, 1854.

LOUIS BLANDING, *Ass't Law Ag't.*

Filed in office Sept. 28, 1854.

GEO. FISHER, *Sec'y.*

50 *Dep. of Thos. E. Evershed, in behalf of claimants.*

UNITED STATES OF AMERICA,
State of California, ss:

SAN FRANCISCO, *Sept.* 27, 1854.

Personally appeared before Peter Lott, commissioner for taking testimony to be used before the board of U. S. land commissioners in said State, Thomas E. Evershed, a witness on behalf of claimants, in cases Nos. 286 and 287; and said witness, being sworn, deposed as follows in presence of the commissioners, the U. S. law agent being present:

I am employed in the office of the U. S. surveyor general for California; I am one of the archive clerks, and, as keeper of said archives, have been requested by parties interested to search for all paper or documents relating to grants of lands to "pueblos," and, amongst such, the grant to the pueblo of Sn. Jose de Guadalupe. I have done so, with regard to the title-papers of the pueblo of Sn. Jose de Guadalupe, to the best of my knowledge. I know of none thus existing in the said archives as a special grant or as the general grants or title-papers to pueblos, excepting those papers filed in the case of pueblo of Sn. Jose de Guadalupe, and in the case of the city
51 of San Francisco, said papers being traced copies, certified by the U. S. surveyor general, the originals of which are now on file and form part of the archives in the office of the U. S. surveyor general.

THOS. E. EVERSHED.

Subscribed and sworn to before me Sept. 27, 1854.

PETER LOTT, *Commissioner.*

The foregoing affidavit may be used and read in evidence, in cases Nos. 288 and 287, before the board of land commissioners to ascertain and settle private land claims in California, with the same force and effect as though taken in the form of a deposition upon due notice.

J. H. McKUNE, *Law Agent.*

Filed in office Sept. 28, 1854.

GEO. FISHER, *Sec'y.*

53 *Exhibit A.*

1 S. D. K.

En carta de quince de Agosta ultimo me participa V. S. que con nueve soldados practicos en el beneficio de la tierra de la compania de ese presidio y la del puerto de San Francisco, cinco poblado res y un sirviente que con sus familias componen sesenta y ocho personas fundo V. S. el dia veinte y nueve de Noviembre, del ano proximo pasado el pueblo de San Joseph de Guadalupe contiguo al nacim'to del rio de este nombre distante veinte y seis leguas de ese presidio diez y ocho de el de S'n Francisco, y tres cuartos de legua de la Mission de Santa Clara, habiendose repartido a cada poblador los solares, tierras y ganados que acredita el padron que me acompana V. S. con su citada carta con la proporcion de aprovechar los aguas del Rio de Guadalupe por medio de una presa para dar Riego y cultivo a una Espaciosa Veja que permite aumentar el repartimiente a los actuales pobladores y a los que nuevam'te se.——

2 S. D. K.

avesinden y dar el pueblo toda la estencion que se intenta de exidos y dehesas de arboledas. Estas noticias y las demas que V. S. me comunica me
han sido de la mayor satisfaccion por la utilidad que resulta de esta
54 fundacion cuyo acierte sepercibe de que dentro de dos anos como V.
S. promete, bastaran las siembras no solo a mantener ese presidio sino tambien el de S'n Francisco de que resultaria competente ahorro a la real hacienda la poblacion de esos establecimientos y la estencion de la religion Catolica en la numerosa gentilidad que habita en esos paises.

Dios guarde a V. S. m. a. Mexico 22 de Julio de pe778.

W. R. S. J'O. ANT'O.
BRUNAY PANNY.

3 S. D. K.

Sor D'n Felipe Nere, Sor Comd'te G'ral, Monterey:

En la insp'n que trata del gov'no politico y poblacion de la California, que se halla inserta en el tit'o 14 del onuevo reglamento de aquella peninsula aprovado por S. M. en r'l orn de veinte y cuatro de Dic'e de mil ochocientos y uno se dispone por el Art'lo 8o que los nuevas pobladores gozaran para mantener sus ganados del aprovechamiento comun de aguas y pastos, Lena y madera del excidocitones y de hesa que con arreglo a las leyes se
hace senalar a cada pueblo y ademas disfrutara puramente de que
55 cada poblador enlo sucesivo no ha de exceder de cincuenta Cabezas de cada especie de ganado que posea para que de este modo se distribuye entre toda la utilidad que producen los ganados la verdadera Riqueza de los pueblos, por las leyes l'a y sigt'es del tit'o V. 1. Lib'o 40 de la Recapil'n de estos R'nos, se manda que el uso de todos los pastos, montes y aquas de las prov'es de Indios sea comun a todos los vz'us de Ellas para que los puedan gozar librem'te con sus ganados revocando en caso necesario qualesquiera ordenanza que hubiese contrarias y estendiendose esta provid'ea no solo a lees montes pastos y aquas de los lugares de senorios consedidos en estos R'nos si no es tambien a los tierras y Heredades vendidas y mercenadas que Alzados los frutos sembrados en ellas, quedan sus pastos de aprovecham'to comun.

El senalam'to de sitios p'a crea de Lanados que pretenden algunos

4 S. D. K.

pobladores de Californias y propone el gov'e en su oficio de ltermino asignado

a cada pueblo que conpone e la ley 6'o tit'o 5'o Lib'o 40 de la Recopilacion
devenser cuatro leguas te territorio en cuadro o prolongado segun la
56 validad de la tierra: por que derejiendose la solicitud de los nueve
pobladores a hacerse duenos privativos de los montes, pastos aguas, maderas, Lena y demas aprovecham'tos de los sitios quese les asignen, mercenen y referentes y a privar de estos beneficios a sus convecinos se ve desde luego ser abronam'te contraria esta pretencion a la disposicion de las citadas leyes y a lo prevenido expresamente en el Ar'to 82 de las Instrucc'n de poblacion's de Californias segun la cual deven ser de aprovecham't comun todas las aguas, pastas lena y madera del termino que con arreglo a las leyes se asignase a cada pueblo para que todas los pobladores puedan gozarlos y disfrutarlos manteniendo en ellos sus ganados y participando de los demas aprovechamientos que prodajeren. Por las leyes 1'a y las sigt'es tita la 13 titulo 12 del mismo Libro 40 se permite el Repartiment's y senalamt'o de peonias Cavallerias y sitios para estancias de ganados mayores y menores con tal que se den lejos de los pueblos de Indios y sus sementeras
y que se obligue a los duenos o interesados a poner tantos pastores y
57 guardas que vasten a evitar los danos que los ganados puedan hacer
a los Indios y a satisfacerles lo que efectivamente les causaren y siendo muy conveniente la consecion de los enunciallos sitios o estancias para fomentar la poblacion en la California, donde por la estencion, de la tierra y abund'a de sus pastos, hay proporcion para verificarlo sin perjuicio de los Indios ni de

5 S. D. K.

otro terreno alguno y donde que por la falta de comercio activo y de consuma y salido de los demas frutos, ha de consister forzosamt'e la mayor Rigueza, de los pueblos en la crea y aumento; de los ganados por estas consideraciones me parece podra V. S. si fuere servido acordar y mandar se pase, Or'n a el Gov'or de Californias, D'n Pedro Fages para que senalando desde luego a cada nueva poblacion el terreno de cuatro leguas que le corresponde lo meda y amojone en cuadro o prolongado segun lo permite la calidad del terreno, y dentro de el no conceda, mercene ni se parta sitio alguno p'a estancia y crea de ganados a ningun vecino o poblador por dever quedar sin montes, pastos, aguas y demas beneficeos de aprovechamiento, comun para todos
los vecinos y pobladores sin que ninguno tenga en ellas, dominio ni
58 propiedad en particular y que en los demas terrenos que quedaren
fuera del espresado termino y distrito asignado a cada pueblo y a tanta distancia que no puedan resultar danos a las misiones, pueblos y sancherios de Indios; ni a sus sementeras, mercene y reparta setios para estancias y crea de ganados con la precisa calidad de que los Vz'nos, y pobladores a qu'es los conceda se han de obligar a poner tantos pastores y guardas que vasten paras evitar los danos y a satisfaccion el impt'l a los que por algun caso sucedieren y la de que ningun vecino o poblador pueda tener mas de tres sitios o asientos, sujetandose a fabricar en cada uno casa de piedra a tener en el dos mil cabesas de ganado p'r lo menos ya que sin embargo de su merced y consecion quedan los pastos de aprovechamiento comun y donde no huviere hetos de Ganadob puedan darse sitios para ingenios y otras heredades segun y como lo dio por'ln las leyes

6 S. D. K.

12 tit. 12 y por lo respectivo a la Irla Espanola la 5'a tit 17 Libro 40. de la
Recopilacion de estos Reynos cuyas condeciones y leyes se insert-
59 aran por clausula espresa en la escritura de mercedes que se hicieren
para que constando a los vecinos y pobladores que las obtengan sepan la obligacion a cuyo curuplimiento queden sujetos y no tengan puesto motivo ni pretexto para alegar derecho a lo contrario en lo sucesivo o

resolvera. V. S. sin enbargo sobre tode lo que fuere de su agrade. Chihuahua veinte y siete de Octubre, de mil setecientos ochenta y sinco.

GALINDO NAVERNO.

Es copia de su original de que certifico. Chihuahua 21 de Junio de 1786.

PEDRO GAMDE DURAN.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such having in my office and under my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the six preceding and hereunto annexed pages of tracing paper, numbered from one to
60 six inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies of certain documents now on file, and forming part of the said archives in my office.

In testimony whereof, I have hereunto signed my name officially
[SEAL.] and affixed my private seal, (not having a seal of office,) at the city of San Francisco, this 26th day of November, A. D. 1851.

SAM'L D. KING,
Survey'r Gen'l, Calf'a.

Filed in office July 14th, 1852.

GEO. FISHER, *Sec'y.*

Exhibit 23.—*Translation of A.*

61 In your letter of the 15th of April last, you informed me that with nine soldiers in the cultivation of the soil from the company at the presidio, and that of the port of San Francisco, five founderers of a pueblo (pobladores) and one servant, numbering with their families eighty persons, you founded on the 29th day of November, of the year last past, the pueblo of San Jose de Guadalupe, near the headwaters of the river of the same name distant 26 leagues from said presidio, sixteen from that of San Francisco, and $\frac{3}{4}$ of a league from the mission of Santa Clara, having divided out to each founder the house lots, lands and cattle, which is authenticated by the list which you forward me along with said letter, with the intention of making use of the waters of the river Guadalupe by means of a drought, so as to afford the means of irrigation and cultivation to such an extensive tract of level plain as will justify an increase of the share, of the actual founderers, and of those who may hereafter become citizens, and to agree to the pueblo the full extent of commons (ejidos) and pasture lands covered with timber that it is designed she should have.

62 This, in addition to the other information which you communicated to me, has afforded me the highest satisfaction on account of the advantages to flow from the foundation, the result of which is apparent, that within two years, as you promised, the crops will be sufficient, not only to support said presidio, but also that of San Francisco, which will result in a considerable saving to the royal treasury, the increase of the population of these establishments, and the extension of the Catholic religion among the numerous heathen who inhabit these countries.

God preserve you many years. Mexico, 22d July, 1778.

EL R'D W. J'E HIL'O BARCLAY,
Y. Ursula.

TO SENOR DON PHILIP, *New Monterey.*

To the Commander General:

In the instructions which relate to the political government and population of California, which are to be found in title 14 of the new regulations of that peninsula, appeared by his Majesty in the royal ordinances of the 24th October, 1781, it is described in the 8th article, that the new
63 founderers shall enjoy in common the use of the waters, pastures, wood, and timber of the commons, the groves and pastures covered with timber, which, in accordance with the laws, are to be marked off to each pueblo, and moreover that each one shall enjoy the right to the pastures of his undivided lands, with the provision that each founder in future shall not have more than fifty head of cattle of his own, in this manner that case may be distributed among all, and that the true wealth of the pueblos may not be monopolized by a few individuals. In the fifth and following law of title C, book 4th, of the Recopilation of these kingdoms, it is decreed that the use of all the pastures, forests, and water of the provinces of the Indians shall be common to all the inhabitants of the same, in order that they may all enjoy the free use of them for their cattle, repealing, whenever it may be necessary, whatever ordinance may conflict therewith, and the provision extends not only to the woods, pastures, and waters in the grants made to the lords in the kingdom, but also as well to the lands sold and estates leased, which, when the crops are harvested, shall remain as pastures for the common use of all.

64 The designation of tracts (sitios) for the raising of cattle which some founders of pueblos of California ask for, and the governor recommends in his official communication of the 20th Nov., 1784, I cannot, nor ought I, permit to be done within the boundaries assigned to any pueblo which, according to law 8th, title 5, book 4 of the Recopilacion, ought to be four leagues of territory, either in a square or elongated, according to the nature of the land—the object of the application of these new pabladores being to make themselves absolute owners of the forests, pastures, waters, timber, wood, and other advantages of these tracts, (sitios,) which may be granted, leased, or divided among them, and to deprive their fellow-citizens of these benefits, which pretension, it will be at once seen, is plainly at variance with the provisions of said laws, and to the provision contained in art. 3 of the instructions in regard to the settlement of California, according to which all the waters, pastures, woods, and timber within the limits which by law are assigned to each pueblo shall be enjoyed in common, in order that the whole population may have the benefit of them, and may use them for the support of their cattle, and share whatever other advantage may arise from the same.

65 The laws 1 to 13, inclusive, title 12 of the same book 4, authorize the designation and division of (peoneos) caballerias and tracts (sitios,) cattle-farms, (estancias,) for large cattle and small cattle, provided they be granted at a distance from the Indian pueblos, and that cultivation grounds, and that the owners of the same, or the interested, may delegate themselves to keep a sufficient number of herdsmen, or guards, to prevent the cattle from doing any injury to the Indians, and to give them satisfaction for such as they may actually do them. The granting of the aforesaid tracts, (sitios,) cattle-farms, (estancias,) contributing to the increase of the population of California, where, from the abundance of land and the extent of pastures, there are the most ample means of so doing without injury to the Indians or other third parties, and where, for the want of active commerce, consumption, and export of the productions, the breeding and increase of cattle must decidedly constitute the principal source of the wealth of the pueblos. For these considerations it seems to me you are authorized, if you deem proper, to grant and order that instruc-

tions be sent to the governor of California, Don Pedro Tajes, to have
66 marked out immediately to each new pueblo the extent of four leagues, with the proper survey and monuments, in a square or elongation, as the nature of the case will admit of, and within which limits then there shall not be granted, leased, or divided out any tract or farm for raising cattle to any citizen or founder, as all the forests, pastures, waters, and other advantages, and to remain for the common use and enjoyment of all citizens and pobladores, so that no person shall have the sole and exclusive the ownership of them. And as regards the lands lying without the said limits and district assigned to each pueblo (tract) sitios may be granted or leased for farms (estancias) for the raising of cattle at such a distance that no injury will result to the missions, pueblos, or Indian villages, nor to their cultivated grounds, with the express provision that the citizens or pobladores to whom they are granted shall obligate themselves to keep a sufficient number of herdsmen and guards to prevent damages, and to indemnify for any that by chance may occur; and that no one citizen or founder shall hold more than three locations (sitios) or tracts, (asuntos,)
67 binding himself to build on each one a stone house, and to place on it, at the least, 2,000 head of cattle. Notwithstanding the leases or grants, the pastures shall remain for the common use and benefit; and where there are no herds of cattle (sitios) tracts may be granted for the plantations and farms, in the manner and as prescribed by the laws 12, title 12, and that referring to the island of Hispaniola, law 5, title, 17, book 4, of the Recopilacion of these kingdoms, which said conditions and laws shall be stated in a separate clause in the deeds of gift which shall be made, so that, being made known to the citizens and pobladores who obtain them, they may be aware of the obligations for the execution of which they are bound, and that they may have no just motive or pretext in the future to allege any right to do otherwise. You will decide, notwithstanding, after all, as you may deem best.

Chihuahua, 27 of October, 1785.

GALINDO NAVARRO.

I certify the above as a copy of the original.
Chihuahua, June 21, 1788.

PEDRO GALINDO Y DURAN.

I certify the foregoing to be a true and correct translation from the
68 authenticated copy of a Spanish document on file in the office of the U. S. surveyor general, which fac simile copy is on file in this office in case No. 286, the mayor and common council of the city of San Jose for the pueblo lands, marked Exhibit A.

GEO. FISHER, *Sec'y.*

Filed in office July 14, 1852.

GEO. FISHER, *Sec'y.*

1 S. D. K. Exhibit E.

En la real orden de que incluyo a V. S. copia certificada se ha servido el rey aprovar la ereccion del nuevo pueblo sobre los margenes del Rio de Guadalupe y consecuente a lo que previene hago a V. S. el mas particular encargo acerca de que escede que establecimiento no perjudique a la mision contigua.

Dios gurarde a V. S. muchos anos.
Pueblo de nombre de Dios, 19 de Julio de 1779.
El Cav'o de Croix.

PEDRO GALINDO NAVARRO.
ANTONIO BONILLOS,
S'or Governador de Californias.

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR THE STATE OF CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office, and under my charge and custody, a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the
70 preceding and hereunto annexed page of tracing paper, and which is identified by my initials, (S. D. K.,) exhibits a true and accurate copy of a document which is on file, and forms part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the city of
[SEAL.] San Francisco, Cal., the 3d day of July, 1852.

SAM'L D. KING,
Surveyor Gen'l, Cal.

Filed in office July 14th, 1852.

GEO. FISHER, *Sec'y.*

71 1 S. D. K. Exhibit D.

Se ha enterado el rey por la carta de V. S., de 23 de Septiembre ultimo, num'o 271, de que el gobernadore de California, Don Felipe Neve, ha establecido una nueva poblacion, de quince vecinos en las margenes del Rio de Guadalupe con lo demas que se contiene en los documentos que encluye. S. moe ha servido aprovado y quiere que V. S. encargue particularmente al mencionado Governador Neve que cinde de que el nuevo pueblo ausilie y no perjudique a la mision inmediata.

Dios que, a V. S. muchos anos, Elpardo 6 de Marzo, 1779.

JOSEPH DE GALVEZ, *Senor D'n.*

TEODORO DE OROYA.

2 S. D. K.

Es copia original que queda en la secretaria de la comandancia gen'l de mi cargo devue certifico
Chihuahua, 22 de Julio de 1779.

ANTONIO BONILLA.

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office, and under my con-
72 trol, a portion of the archives of the former Spanish territory or department of Upper California, do hereby certify that the two preceding and hereunto annexed pages of tracing, numbered one and two, and each of which is verified by my initials, S. D. K., exhibit a true and accurate copy of a document on file, and which forms part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the city of
[SEAL.] San Francisco, Cal., the 3d day of July, 1852.

SAM'L D. KING,
Surveyor Gen'l Cal'a.

Filed in office July 14th, 1852.

GEO. FISHER, *Secr'y.*

73 *Exhibit E.—Translation of C and D.*

By a royal order, a certified copy of which I enclose to you, the king has been pleased to approve of the erection of a new pueblo, on the banks of the river Guadalupe, and in compliance with his instructions, I give you the most particular injunction careful, (to see to it,) that this establishment shall not prejudice the adjoining mission. God preserve you many years. Pueblo de nombre de Dios.

17 July, 1779.

EL CAV'LO DE CROIX.
ANTONIO BONILLA.
PEDRO GALINDO NAVARRO.

To the Sen'r Governor of California:

The king has received the information communicated by your letter of the 23d of September last, numbered 27, that the governor of California, Don Felipe Neivo, has established a new pueblo of fifteen citizens on the banks of the river Gaudalupe, with other information contained in the documents which it encloses.

His Majesty has been pleased to give this act his approval and desires that you should charge particularly on the said Governor Neivo that
74 he shall see to it that the new pueblo shall aid and not prejudice the adjacent mission. God preserve you many years.

El Pardo, 6th of March, 1779.

JOSEPH DE GALVEZ.

To Senor Don Teodoro de Croix:

I certify the above is a copy of the original filed in the office of the secretary of the commander gen'l.

ANTONIO BONILLA.

(Here follows map, page 74.)

Exhibit F.—1 S. D. K.

75 Copia. Con los justos fines de defensa conservacion y formento de la providencia de Californias, en que particularmente se interesan el servicio de Dios y del prey he resulto la ocupacion del canal de St'a Barbara con un presidio de este nombre y tres misiones, la ereccion de un pueblo con el titula de la Reyna de los Angeles, sobre el Rio de la Porcioncala y S. M. ha aprovado el que mande fundar a los margenes del de Guadalupe, titulado S'n Joseph para proporcionar el felez logro de estos nuevos importantes establecimt'o hallo por consccuente y me pidio el Senor Gover'or de aquella provincia Don Felipe Neve en nareas representaciones la venida de V'm a esta Banda y habiendo yo condecendido gustosamente es llegado el caso de exercitar el celose desempeno de V'm en los encargos que previene la adjunta instruccion estos se reducira la ventajosa recluta de familias y

soldados para Californias de modo que no padezca notable per juicio.
76 Esta provincio en su corta poblacion y a la u'til cresida y necesaria rementa de mulas, caballos, llegeras, y demas que necesitar los

2 S. D. K

antiguos y nuevas. Establecimientos de la peninsula V'm debe con reflecccion y preferencia a todo imponer se de mis prevenciones, y presentarme antes de su salida de esta capital y despues en el tiempo que emplei en su comision los dudas y difiultudes que se le ofrezcan para que yo pueda aclararlas y rencelas en el articulo 44 de la instruccion digo a V. In que a los relantos no se ha de enganar ofreciendolos mas de lo que haya de cumplirseles; y comprehendiendo que este punto delicado necesita de mayor claridad advierto a V'm que el recluta poblador se le la de necesitar con el sueldo mensal de diez posos y racion diario de estelo por el perentorio termino de tres anos que har de contarse desde el dia de su admision que a cada uno se le daran dos Bacados Buezes dos Teguas dos Caballos, una mula dos obejas, dos cabras, y las precisas erramientas y utencilias para las labores del
capo: Y que todos estos ausilios y los de restuario y montura que
77 ahora reaben la van Reintegrando a la R'e Hacienda a excepcion del importe del sueldo mensal y Raciones con parte de los frutos remillas y procreancias de ganados de manera que no les palte para su precisa subsistencia y se veri que el justo endicado reintrego, los reglutas solsados,

3 S. D. K.

como que gozan de fixo y mayor sueldo, y se gobieran por distintas reglas satisfaran, de sus haneres por medio de prudentes descuentos los gastos que causen en su actual habilitacion y de sus familias de Vestuarios Monturus, armamentos, viveres, y remortes. La mala inteligencia que ha dado el vulgo el Reglamento de Califoruias, persua deindosa las mayor es perjuicios en los decargos o descuentos que alli se hacen a los sueldos de oficiales, Tropas y pobladores podra retraer a muchos de aprovechar la opurtuna ocasion que ahora se les presenta de conseguer un honirable y feliz estable cemiento y de hacer un leal servicio al Rey que merecera en
todos tiempos su serverano a grado y justa remuneracion; paras
78 desvanecer aquellas danosas imprecienes es monester que V'd procerl valerse de prudencia y mana sin faltar en lo mas menimo a la verdad y fuerza que sen el norte de mis disposiciones bajo el concepto de que estoy tratando seria y eficazmente en ocuno al remedio de los imaginados perjuicios que me persado tengan mas de apariencias que de realidad, pues todos los que se experimentar asi en estas fromteras, como en la de Californias no provienen verdaderamente de las providencias de ordenza seno del vicioso

4 S. D. K.

modo con que suelen, observarse sino perjuiciosas reglas de mas facil remedio, metodiando las reglas aclarandolas que por el tiempo y las experiencias obliguen a alguna variacion y celando sobre su exacto y divido cumplim'to estoy cierto en que lograra V'n puntual a las importantes comisiones que le confio como V'n debe estarlo de que recomendare a S. M. este muevo particular servicio para que se digne despensarlo las gracias que sean de su
B'l agrado, y es esta inteligencia advirtiendo a V'm que despondra la
79 avaluacion de vestuarios, monturas, y demas para los reclutas y familias de que trata el ar'to 22 de la instruccion y su primera Marcha a los alamos acompano el adjunto pasaporte a fin de que V'm no demore la saya. Dios guarde a V. M. M's An'o.

Arispe 27 de Dic'e de 1779.

Caballero de Croix Senor D'n Fernando de Rivera y Moncada son copias de sus originales de que certificio.

Arispe 70, de Febrero.

ANTONIO BONILLA.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office, and under my charge and control a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the four preceding and hereunto annexed pages of tracing paper, numbered from one to four, inclusive, and each of which is verified by my initials, (S. D. K.)
80 exhibit true and accurate copies or extracts of portion of a document on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially and affixed my private seal, (not having a seal of office,) at the city of
[SEAL.] San Francisco, Cal., the 3d day of July, 1852.

SAM'L D. KING.
Sur'y'r Gen'l, Cal'f'a.

Filed in office July 14th, 1852.

GEO. FISHER, *Secr'y.*

81 *Exhibit G.—Translation of F.*

For the just purpose of the defence, preservation, and protection of the province of the Californias, in which the service of God and the king are especially interested, I have concluded upon the occupation of the channel of Santa Barbara by the presidio of that name and three missions, the erection of a pueblo with the title of "La Reina de los Angeles," on the river Porcumceila, and his majesty has approved the one which I ordered to be established on the banks of the river Gaudalupe, called San Joseph.

In order to insure the most complete success to these new important establishments, the senor governor of that province, Don Felipe Neivo, deemed it necessary and has asked for your presence in the court, and I having cheerfully consented thereto, the occasion has arrived for you to bring into exercise your zealous performance of the duties prescribed by the accompanying instructions.

They consist in the advantageous recruiting of the families and soldiers for California, so that this province may not suffer any serious injury in its sparse population and in the valuable increase and necessary stock of mules, horses, mares, and other things that old and new establish-
82 ments of the peninsula require. You are therefore, with consideration and a preference to everything else, to charge yourself with the arrangements I have made and do make known to you before selling out from the capital, and afterwards during the period you are exercising your commission the doubts and difficulties that present themselves to you, in order that I may clear them up and overcome them.

In article 14 of the instructions I say to you that you must not deceive the recruits by offering them more than they are to receive; and further explanation I call to your attention that the recruits for the pueblos are to receive for the monthly pay of ten dollars and the customary daily ration for the definite period of three years, to be counted from the day of the enrollment. To each one are to be given two caros, two oxen, two mares, two horses, one mule, two sheep, two goats, and the necessery implements and

utensils for the cultivation of the soil, and that all this assistance, as well as the clothing and mountings, which they now receive, are to be reimbursed to the royal treasury, (with the exception of the expense of the
83 monthly pay and rations) out of the sale of fruits, grain, and the raising of cattle in such a manner that there may be sufficient for the proper subsistence, and that the aforesaid just reimbursements shall be made. The recruits for the troops, as they enjoy a fixed and better pay, are governed by distinct rules, shall pay out of their property by reasonable installments the expenses they occasion for their actual enrollment and that of their families, cavalry equipments, arms, provisions, and cavalry horses. The false reports which the common people have circulated in relation to the regulations of the service in California, leading to be believed that the greatest losses are sustained by reason of the drawback and discount taken from the pay of the officers, troops, and inhabitants of the pueblos, will deter many from taking advantage of the opportune occasion which is now presented to them to obtain an honorable and happy establishment, and to do a long service to the king, which well merit in all respects his sovereign pleasure and just recompense.

In order to dissipate the injurious impressions, it is necessary that you should exercise all your prudence and manage, even in the smallest details, in accordance with truth and sincerity, which are the rule of my dispo-
84 sitions, under the influence of which I am now endeavoring, sincerely and efficaciously, to apply a remedy to the imaginary evils which I am persuaded exist more in appearance than in reality, as all these that are with as well on these frontiers as on that of California, do not in fact proceed from the regulations of the service, but from the loose manner in which they are observed; and easy remedy for this prejudice is to be found in systematizing the regulations; clearing up those that time and experience demonstrate to require some modification, and exacting zealously a regard and perfect obedience to the same.

I feel satisfied that you will devote yourself principally to the important commission which I confide, as you should do; in which case I will recommend to his majesty this new particular service, in order that he may be pleased to dispense to you such favors as it may be his royal pleasure to extend you; and with this information advising you that I will make arrangement of the supply of clothing, trappings, and other things, for the recruits and families treated of in the 22d article of the instruction,
85 who are to make them first march to the Alamos. This enclosed passport accompanies this, so that you may not be delayed in your own.

God preserve you many years.
Arispe, 27 of December, 1779.

EL CAVALLERO DE CROIX.

To Don Rivero y Moncado.

I certify the above to be a copy of the original.
Arispe, 10 Feb., 1790.

ANTONIO BONILLA.

Filed in office July 14, 1852.

GEO. FISHER, *Sec'y.*

87 *Exhibit H.*

Ex'mo s'or muy senor mio: La provincia de Californias es unade las que

1 S. D. K.

particularmente me encarga S. M. en las reales instrucciones y el Governa-

dor Dn. Felipe Neve a consecuencia de las ordenes del exmo Sor. Virey antecesor de V. E. y de las mias me ha profuesto varios puntos relativos a la mejor defensa, conservacion y fomento de aquel importante pais. Examinados con prolixidad los informes repetidos del gobernador y mereciendome el mismo buen concepto que al difunto Sor. Virey he dispuesto la ocupacion del canal de Santa Barbara con em presidio de este nombre y tres misiones la ereccion de un pueblo con et titulo de la Reyna de los Angeles sobre el rio de la porciuncula y S. M. se digno aprovar el que se fundo a las margenes del inmediato titulado Sr. Josep. Estas providencias exijen el aumento de tropas que manifiesta el citado adjunto No. P. para distribuilas con arreglo al documento No. 2 y a fin de que tengan efecto son necesarios los ausilios

2 S. D. K.

de recluta de familia pobladores y soldados a copio de remortias y otros varios que expondre a V. E. en distintos oficios.

Para facilitar los que en este forme la instruccion de que incluyo
88 copia encargue la practica de sus reglas al capitan Dn. Fernando de Rivera y Morcada, y ya este oficial ha dado principio a las comiciones pero necesitando para el desempeno que V. E. se sirva ausiliar les accompano a este fin la adjunta nota de V. E. que indica las necesarias disposiciones de V. E. y pues por mi parte he dado las conducentes a la cuenta y razon de gastos; que debe presentar el comicionado rivera, luego que concluya la recluta de tropa y familias pobladores y el acopio de remontas quedan hasta este caso pendientes mis sucesivos avisos y remision de documentos a V. E. para los cargos y abonos que resulten a los presidios de Californias y a las familias y para el reintrego de los suplementos que hicieron las reales bajas de Guadalaxara y alamos: Nuestro S'de que a V. E. Ms.

3 S. D. K.

an's Arispe q de Febrero de 1780. Ex'mo S'or Blm'e ov'e su mas A. P. seg's serv'or El Caballero de Croix Ex'mo S'or Dn. Martin de Monjorga es copia de su original de que certifico f'ha ut supra.

ANTONIO BONILLA.

Not'a.—La distribucion No. 2 que se cita en la copia precedt'e lo
89 es de las tropas de la provincia y se formaliso con arreglo a las noticias del senor governador.

DN. PHELIPE SEVE.

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the three preceding and hereunto annexed pages of tracing paper, numbered one, two, and three, and each of which is verified my initials, S. D. K., exhibit a true and accurate copy of a document on file, and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially, and affixed my private seal, (not having a seal of office,) at the county [SEAL.] of San Francisco, Cal., the 3rd day of July, 1852.

SAM'L D. KING,
Surveyor Gen'l, Cal.

Filed in office July 14th, 1852.

GEO. FISHER, *Secre'y.*

91 *Exhibit I.—Translation of H.*

MOST EXCELLENT SIR—MY DEAR SIR: The province of California is one of those that his majesty most particularly charges me with in the royal instructions, and the governor, Don Felipe Neive, in consequence of the order of his excellency senor viceroy, (the predecessor of your excellency,) and of my own, has proposed several suggestions relative to the better defence, preservation, and encouragement of that important country. Having examined with minuteness the repeated information of the governor, and as they deserve at my hands the same favorable opinion as they received from the late senor viceroy, I have ordered the occupation of the channel of Santa Barbara by a presidio of that name, and with three missions, the establishment of a pueblo under the name of the Queen of los Angeles on the Porciunoula River, and his majesty has been pleased to give his approval of the one which was founded on the banks of the contiguous river of Guadalupe San Jose.

These dispositions require an augmentation of troops, as indicated in the accompanying paper No. 1, to be distributed in accordance with the documents No. 2; and in order that they may be effective it is necessary
92 to increase the recruits, both of families for the pueblos and for the troops, the stock of country horses, and various other things which I will explain to you in distinct communication.

In order to facilitate the objects above referred to instructions have been framed, of which I enclose you a copy, in which I enjoin the observance of discipline upon Captain Don Fernando de Rivera y Moncado, and this officer has already entered upon his duties; but it being necessary for the proper discharge of the same by the said officer that you should continue your kind offices to aid the execution of the same, I enclose the accompanying note, marked No. 3, which points out the dispositions necessary on the part of your excellency. And as I, for my own part, have made such as are necessary for the country, and making a list of the cattle which the commissioner's officer, Rivera, is to present as soon as he finishes the recruiting of the troops and families for the pueblos, and the collection of cavalry horses, which dispositions in relation to these matters are to be observed until he receives further orders, together with the documents for the charges
93 and allowances which are to be provided for the presidios of California, and for the families, as well as for the complete equipment of the new recruits, which will be supplied from the royal treasury of Guadalupe and Alamos. Our Lord preserve you many years.

Arispe, 9 of February, 1780.

Most excellent sir, I kiss your hands, and remain your most obedient, humble servant, EL CAVALLERO DE CROIX.

To his excellency DON MARTIN DE MAEJORGA.

I certify that the above is a true copy of the original. Date as above.
ANTONIO BONILLA.

Note.

The distribution No. 2 in the above refers to the troops of the province, and is framed in accordance with the advice to the senor governor, Don Felipe Neive.

Filed in office July 14th, 1852.

GEO. FISHER, *Sec'y.*

S. D. K.—*Exhibit K.*

95 Las principales repedidas y fundadas proposiciones de V. S. para defensa, conservacion y formento de la provincia, de su cargo han consistedo en la ereccion de los Pueblo s're las margenes de los rios Guadalupe y porcenwenlo y de un presidio y tres misiones en el canal de Santa Barbara dara promver y comprovar la importancia, de estos vigehtes y mas utiles estable cieniento ha practicado V. S. todas las diligeneias propias de su notoris, celo, eficacia y talentos ; y aunque por mi parte no he omitido

2 S. D. K.

cuantos caven en la posivilidad han postagado sus efectos las much ar proligas ya un, preferentes atenciones del vasto mando de estas provincias y los graves guebrantos demi salup R establecido de ellos a compano a V. S. la copia adjunta No. 1 de instruccion que he dago al Capitan Dn Fernando de Riveia y moncada en la que hallara. V. S. mis primeras providencias para la Recluta de Tropas y familias pobladores avilitacion de unas y otras, acopios de Remontas, monturas y utensilios de Campo; y vera tambien por los documentos, de la carpeta No. 2 los asilios que he predido al Exmo Senor

3 S. D. K.

96 Virey pura el lagro de las insiniadas primeras las segundas deven contraerse al transporte de todo pero como penden de su variedad de novedades que pueded ocurrir y de la mas o menos pronto conclusion de las comisiones encargadas al capitan Dn Fernando de Rivera no es posible detallarlos ahora ni dar a V. S. otras avisos que los de que algunos familias y reclutas de Tropa se trasladaran a ese destino por el puert o de Sn Blas otras por el de Guaimas al Loreto y lus Restantes con la mayor parte de Cavallos mulas, Teugas y demas por el camino del Rio

4 S. D. D.

Colorado que descurio el teniento Coronel o Juan Bapta de Ainsa.

Persuademe que esta exception por tierra podra salir en Septiembere u Octubre dce corriete ano no lo aseguro pero de cualquiera modo teniendo V. S. presente esta noticia y las que contienen los documentos de la carpeta No. 3 que he rensitado al Sor Virey devera prevenir V. S. sus particulares disposiciones communicarlos avisos necesarios al R. P. presidente Fr Junipera Serra manifestar me loque esteme conveniente al logro de los establicum'po y de mil providencias para posivilitar los.

5 S. D. K.

97 Dios guarde a V. S. m's a's. Arispe 10 de Febrero de 1780.

EL CARV'O D. CROIX.
SOR D'N FELIPE NEVE.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such having in my office and under my control a portion of the archives the former Spanish and Mexican territory or department of Upper California, do hereby certify that the five preceding and hereunto annexed pages of tracing paper, numbered from one to five, inclusive, and each of which is verified by my initials, (S. D. K.,) exhibit a true and accurate copy of a document on file and forming part of the said archives in this office.

In testimony whereof, I have hereunto signed my name officially,
[SEAL.] and affixed my private seal, (not having a seal of office,) at the city of San Francisco, the 3d day of July, 1852.

SAM'L D. KING,
Surveyor Gen'l, Cal'a

98 Filed in office July 14th, 1852.

GEO. FISHER, *Secr'y.*

Exhibit L—Translation of K.

99 The principal repeated and well-founded recommendation made by you for the defence, preservation, and protection of the province under your charge, have consisted in the erection of two pueblos upon the banks of the rivers Guadalupe and Porcuncula and of a presidio and three missions in the channel of Santa Barbara.

In order to promote and prove the importance of the urgent and most useful establishments, you have displayed all the assiduity belonging to your well-known zeal, ability, and talent; and although I, for my own part, have omitted no exertion that I could by any possibility make, they have fallen far short of their proper offices by reason of the many troublesome and prior claims on my attention, of the vast command of these provinces, and the serious breaking of my health.

This being re-established, I send you the enclosed copy (No. 1) of instructions, which I have given to Capt. Don Fernando de Rivera y Marcado, in which you will find my first dispositions for the recruiting of both the collection of cavalry horses, with their equipments and camp equipage;
and you will also see, by the documents in the envelope No. 2, the
100 aid that I have asked for from his excellency senor viceroy for the successful result of the said first-mentioned disposition.

The second are confirmed to the transport for all, but as they depend upon the variety of new circumstances which may arise, and the more or less prompt execution of the commissions which Capt. Don Fernando de Rivera is chrged with, it is not possible to give them to you now in detail, nor to give you other advices than that several families and recruits of troops will be transported to your province *via* the port of San Blas, others by that of Guaymas to Loreto, and the remainder, with the greater part of the horses, mules, and other things, by the road of the Colorado River, which was discovered by the Lieutenant Col. Don Juan Baptista de Fusa.

I am inclined to think that this expedition by the land route will be able to set out in Sept. or October of the coming year. I do not insure it, but, however, it may be keeping in view these orders, and those which may be contained in the document of the envelope No. 3, which I have remitted to
Dn. Viceroy. It will be your duty to make your own arrangements
101 beforehand, to communicate the necessary advices to Red. Padre president friar, Junipera Serra, and to point to me whatever you think necessary for the success of these establishments, and of my arrangements to facilitate and aid them.

God preserve you many years.
Arispe, 10th Feb'y, 1780.

EL CAVALLERO DE CROIX.

To SENOR DON FELIPE NIVE.

Filed in office July 14, 1852.

GEO. FISHER, *Sec'y.*

103 *Exhibit M.*

(Copia.) Con vista de cuanto se ha actuado en el espedt'e s're limites entre el pueblo de Sr. Josep y mision de Santa Clara de esta peninsula he resulto en discreto de esta f'ha de conformidad con pedimento del Sr. Fiscal de Real Hacienda y panecer del asesor que en lo subsesio sirva de lindero o termino delisoris del Rio de Guadalupe, dejundo d'ho pueblo parte de la terra que cal asi a la costa y esta al otro lado del rio dibisorio para que se provea de Madera y Lena segun propuso el Sir Govr. que fue de esta referida peninsula. Dn. Diego de Borrica con f'has de 3 de Diz're de 98 y 17 de eno proximo anterior, lo que aliso a Vm. para su intelegencia y cumplimiento preveniendole que conviniendo para evitar en lo sucesivo nuevas disputas y los perjuicios que mutuamt'e pudieran inferirse los vecinos de una y atra poblacion por faltus de senales bien claras elque los linderos sean firmes y permantes hagade acuerdo con el padra presidenta de las misiones asignando de las misiones asignando de la parte de la Sierra o Costa que debe quedar al pueblo para Corte de Lena y Madera y que se designe el terreno proniendo mojoneras fijas a fin de obrar dichos in-

104 covenientes

Dios gue a V. M. Ms. As.

Mejico, 10 de Septiembre de 1800.

MARGARITA.

Sr. Governador int de Californias : Es copia de que certifico. Loreto y Octubra 30 de 1800.

ANELLAGA.

Es copia de la que se trata de que certifico Sta. Clara, 24 de Julio de 1801.

JOSEF ARGUELLO.

Don Josep Arguello, capital graduado y comandante del real presidio de San Francisco.

En cumplimiento de la superior orden del exmo Sr Virey de N. E. de que es copia laque antecede y en virtud de haverme comisionador el Sr. Governor interino Dn. Josef Joaquin de Anellaga para que de acuerdo con el M. R. P. presidente Fr. Fermin Fran'co de Lazuen procederia a la division de limites entre el pueblo de San Josef y mision de Santa Clara pase en compania del R. P. Fr. Martin de Landaeta, a quien para el efecto fue nombrado por d'ho R. P. presidente y haviendo reconocido el terreno, con precencia de me de los R. R. P. P. ministras de la comisionade mision las jus-

105 ticias y comisionado del citado pueblo fue senalado por lindero o termino divisorio de ambas partes. El Rio de Guadalupe y como este tiene su origen proximo a la dos y mucho mas al pueblo que a la mision se dispuso tirar una linea con arreglo a la direccion que elevan las aguas del mismo rio que corre con poca difiencia de su'the a norte y se les preveno a los interesados construyesen inmediatamente tres mojoneras de piedras firmes y permanentes poniendo la ultima sobre una lomita picachuda que senala al pie, de la sierra que elaman del parage de los Capitancillos que dandoles en este citio parte de su roblar para lena y lo mismo tods el sousal de que esta cubierto el origen del Rio de Guadalupe. Conclue do este punto se les senalo parte de la sierra del lado de la costa por la landa de la mision para el corte de madera y lena de ambos establecimientos haciendoles fixar una mojonera como los otras en el intermedio, de los dos citios

que les sirva de lindero; y para constancia de lo practicado, le firme con los citados individuos en Santa Clara a 24 de Julio de 1801.

JOSEF ARGUELLO.

106 Fr. Martin D. Landaeta Ministro.

JOSE VRADEZ.

JOZ. MG'E OSUNA,
MARCOS CHABOYA,
Comisionado mario de Castro.

Filed in office July 14th, 1852.

GEO. FISHER, *Secr'y.*

107 *Exhibit N.—Translation of M.*

In view of what was recorded in the expediente, designating the boundaries between the pueblo of San Jose and the mission of Santa Clara of this province, I have resolved by this decree, of this date, in acccordance with the petition of the attorney general of the royal treasury, and the opinion of its counsellor, that in the future the river Guadalupe shall serve as the boundary or dividing line, leaving to said pueblo part of the mountain that lies along the coast and which is on the other side of the dividing river, in order that they may have a provision of timber and wood, as was proposed by Don Diego de Borrica, who was governor of the aforesaid peninsula, under date of 3d of December, 1798, and 17th of January next preceding, which he communicated to you for your information and execution of the same, advising you that as it was proper, in order to advert for the future any new difficulties and the inquiries which the citizens might mutually inflict upon each other for the want of well-defined landmarks, that the boundaries should be made secure and permanent, a relinquishment shall be made with concurrence of the padre president of the mission of that
108 part of the mountain or coast which is to be assigned to the pueblo for the cutting of wood and timber by placing fixed monuments in order to avoid the aforesaid difficulties.

MARGARITA.

To the provisional governor of California.

LORETO, *October 30th*, 1800.

I certify the above is a true copy.

ARRILLAGA.

SANTA CLARA, *24th July*, 1801.

I certify that the above is a copy of what it purports to be.

JOSEF ARGUELLO.

I, Don Josef Arguello, captain and commander of the presidio of San Francisco, in compliance with the sovereign order of his excellency the viceroy of New Spain, of which the preceding is a copy, and in virtue of having been commissioned by the provisional governor, Don Josef Joaquin de Arrillaga, to proceed, with the concurrence of the minister the Rev'd Padra President Friar Fermin de Lazuen, to the division of the boundaries between
109 the pueblo of San Jose and the mission of Santa Clara, I went in company with the Rev'd Father the Friar Martin de Landada, who for this purpose was appointed by the said rev'd padre president, and having re-

connoitred the land, in the presence of the right rev'd padres, ministers of he aforesaid mission, the judge, and the commissioner sargent of the said pueblo, the river Guadalupe was designated as the limits or division line of the two parties. And as the river takes its rise near both, and much nearer the pueblo than the mission, it was concluded to run a line in conformity with the direction of the course of said river, (which,) with slight variation from southeast to northwest, and the parties interested were notified to have constructed three monuments of stone immediately, stable, and permanent, placing the last in the apex of a little hill which lies at the foot of the sierra (mountain) which is called the "Parage de los Capitancillos," leaving to them, the inhabitants of the pueblo, a part of the oak grove in this place, for want of wood, and also all of the willow grove with which the source of the river Guadalupe is covered.

110 When this point was determined, a part of the mountain on the coast side in the mission side of the river was marked off for them for the supply of timber and wood for both establishments, causing them to establish a monument between the two places, and this last line to serve as a dividing landmark; and in authentication of the above proceeding, I subscribe the same with the aforesaid individuals, in Santa Clara, the 24th of July, 1801.

JOSEF ARGUELLO.
FRIAR MARTIN DE LANDATO.
MINISTER FRIAR JOSE VIADER.
JOS. MIGUEL OSUNA.
MARCOS CHABOYA,
Commissioner Sargent.
MARCAREO DE CASTRO.

Filed in office July 14, 1852.

GEO. FISHER, *Sec'y.*

111 *Exhibit O.*—1 S. D. K.

MONTEREY, 1o *de Eno., de* 1797.

Unase al espdt'e de la materia.

BORICA.

En cumplimiento a que V. S. me dijo le esponga de que medios se pueda user p'a evitar los riesgos que cercan este pueblo en crecientes de los rios; debo decir a la sup'or atencion de V. S. son los unicos, la traslacion y frabricacion de casas a la otra parte del rio donde ofrece sitio aproposito; como a dos tiros de fusie, frente de donde hey mismo se halla situado en la punta del roblar que esta en la misma mesa que corre hasta la mision esta parage es pertenencia al pueblo en su territorio, sin obstaculo de disencion en limites, dicho sitio logra de avenu'de y la principal de su trancito a la mision pues aunque las aguas sean abundantes no sera incomodo el paso;

2 S. D. K.

y no se caresca de la misa y de una consecion (que en el paraje hoy dia poblado, se carece,) pues en tiempo como el presente no hay recurso, a un repenteno accidente de muerte; pues de no cargar con el enfermo; y esto con mie travajos, no esdable, ni accequible los R. Rs. P. Po. ministros se esponyan. Estas sen senor las fundadas Razones que (a excepcion de cuatro individuos) todo este vecindado me a echo prest'e El Cavo Ig'no Valle-

112 jos conviene en ello con estas formales Razones.

La primera dice; en el tiempo que obra be el mando y comision de este pueblo esperimentamos. Corrientes tan grande que a poco mas se

eleva las casas quedando algunos cuarteados y dejarnos privados de la misa y confeciones a motivo a no dar paso en muchos dias paratran hasta la mision sin tener que radear como tres leguas para desechar los malos pasos que se ofrecen en entos tiempos, y en ellos quedar a piesir poder usar

3 S. D. K.

de los Cavallos ni reconocer las Cavalladas ni poder echar mano a ellas, a advertimos en alguna evento no permado ya en este pueblo 8 ya en la mision contigua ; siento tales ocasiones de las que se talen los Gentiles o Indios Cristianos para un atentado. Ultimamente para siemrbas de trigo, maiz y demas, pastos de ganada mayor y menor, trancito de correos y regua ; ofrese mejores ventajas asi como de maderas y lena, todo &, y en ello me ratifico.

IG'NO VALLEJOS.

113 Todo lo relacionado es lo que esti vecindario me ha ocho presente ; y pongo en la gr: atencion, V. S. que en ello resuelva segun halle por conveniente pueblo de Sn. Josef, 8 de Ene'o, de 1797.

Sor Governo D'n Diego de Borica:

Gabriel Moraga, el sargento comicionado dee pueblo de San Jose, Luis

4 S. D. K.

Peraeta, en of'o de 22 de Agosto anterior edtre atras cosas me heso presente lo que vera V. L. p'r la copia adjunta con no. 1, sobre tener los y p's mintro's de la Mision de Sta Clara el ganado mener caballada, Bueyes, y ganado Chichiguo en el parage de las calaveras; ignorando yo la situacion de d'ho sitio le conteste d'ho comisionado lo que copio con no. 2, y en cumplimiento paso a reconocer el paraje acompanado dee alcalde y otros y me imforma

5 S. D. K.

que d'ho sitio de las calaveras pertenece al puebla como se impondra V. S. p'r su oficio original que tambien acompano con no. 3.

Todo lo que pongo en la sup'or noticia de V. S. p'a que se sirva dictarme se g'r le paresca lo que va hacer y contestar al comisionado.

Dios guarde a V. S. M's A's, Monterey, 20 de Septiembre, de 1809.

JOSE M'A ESTUDILLO.

114 Sor Gov'r e Inspector D'n Jose Joa q'n de Arillago:

(Copia.) Los vecinos y pobladores se me han quejado sobre que la misionde S'ta Clara he puesto su ganado menor caballado, bueyes y ganado chichiguo en el parage de las calaveras el cual diseno le corresponde al pueblo y como yo ignoro cual es el lindero que divide las tierras de S'n Jose y el pueblo ni encuentro en el archivo documento que lo manifieste he preguntado a los mas del pueblo y ninguno meda una razon cierta; considero que a la mision de S'ta Clara no le toca pero esta piensa l'al vez que les toca a la mision de San Jose y en esta confianza alra puesto alle sus ganados; como puso hace tiempo el ganado menor en el rancho de Larcos causa de estar tan talado el pasteadero estos bueyes del pueblo y quisas de que se mueran algunos y teniendo este mismo me dicen los vecinos querran concluidos los cosas del trigo llevar sus lueyes y caballada mansa a d'ho parge y que si le toca al pueblo desdo si a V. M. le parece. Tambien dicen

115 que en d'ho parage se mantiene mucho ganado del pueblo y que es regulav que se los aviciten lo que no les acomoda por que pueden intermarse a la Sierra Algunos vicinos tenian su caballada por la otra banda del rio por la parte de la mision y por quaja de los I R's P. P. sequito y se trajo a la parte del pueblo y halran pensado ponerla en el para.

ge d'ho de las calaveras lo que he mandado suspender hasta que V. M. lo disponga lo que sea de su agrado y que yo quede instruido de cual es el lindero que divide las tierras de S. Jose y si el dicho parage de las calave-

7 S. D. K.

ras per tenece al pueblo les convienne mucho a estos vicenos llevar alli la bueygada por que aqui se les muera mucho por estar las campos que parecen losas barrida y principalmt'e por la parte en que pastean los bueyes con el motico de aver pastoreado su ganado menor la mision de S'ta Clara p'r elmismo sitio. Es copia sacada del oficio que con f'ho 29 do Agosto, anterior me paso el comicionado del pueblo de San 'Jose Luis Peralta de que certifico.—(Vide page 116. Transposed by mistake in the original transcript.—TRANSCRIPT CLERK.)

A portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the eight pre-
116 ceding and hereunto annexed pages of tracing paper, numbered from one to eight, inclusive, and each of which is verified by my inicials, (S. D. K.,) exhibit true and accurate copies of certain documents now on file and forming of the said archives in my office.

In testimony whereof, I have hereunto signed my name officially, and af-
|SEAL.| fixed my private seal, (not having a seal of office,) at the city of San Francisco, Cal., this 21st day of November, A. D. 1851.

SAM'L D. KING, *Surveyer Gen'l Cal.*

Filed in office July 14th, 1852.

GEO. FISHER, *Secr'y.*

8 S. D. K.—(Copia.)

MONTEREY, 20 *de Septiembre, de* 1809.

Jose M'a Dstudillo, el ano de 1896 hallandose el actual Sor Gobernador en esa jurisdicion a presencia del sargento macario de castro (y adifunto y del alcade de ese pueblo no me a cuerdo quien) par a cortar los litiyios que tenian los vecinos con la mision de S'n Jose sobre pertenencias de
117 terrenos tubo a bien senalar d'ho gefe por limites entre d'ho pueblo y mision; una loma que esta para el sar del rancho que era de Jose Larios y me acuerdo que los padres se conprometieron hacer un bayado desde la punta de d'ha loma hasta el primer esterito. Como no me dice V. M. en primera ocasion. Es copia del parage que en oficio 15 de Sept'e, que corre le pase al comisionado del pueblo de S'n Jose Sarg'to Luis Peralta de que certificio.

Monterey, 20 de Septiembre, de 1809.

JOSE M'A ESTUDILLO.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for California, and as such now having in my office and under my charge and control.

119 *Exhibit P.—Translation of O.*

In compliance with your desire that I should explain to you what means can be adopted to avoid the dangers that surround this pueblo during the rising of the rivers, I have to submit for your supreme consideration, that the only remedy is to remove, and build houses on the other side of the river where a convenient site offers, at about twice gun-shot distance, in front of which is situated at this time the oak grove which is on the same table land of the mission. This site is the property of the pueblo, within

its territory, and without any controversy in regard to its boundaries.—Said site possesses greater advantages and security against overflow, and the principal one is the facility of passing to the mission even when the waters are very high, and thus would be no deprivation of mass, and of which the people at this time are deprived, and the travelling will not be disagreeable; but in weather like the present there is no alternative, even in case of sudden accident or death, unless one should shoulder the sick person,
and this, with a thousand difficulties they would meet with, is not
120 an easy task, nor one to which the rev'd fathers the ministers
should be exposed. These are, sir, the well-founded reasons which all the citizens, with the exception of four individuals, have made known to me; indeed, Ignacio Vallejo is of the same opinion, and for these serious reasons: First, he says, at the time I obtained the command and commission of this pueblo we found such a great rise that it came near sweeping away the houses, leaving some of them cracked to pieces, and depriving us of mass and confession, by reason of which there were many days when we could not pass to the mission without going around about three leagues to avoid the bad places that were so common at that season. And in these places we left afoot without being able to use their horses, nor could they look after them nor lay hands upon them for the purpose of giving us notice in any event, whether in this pueblo or in the adjoining mission, it being such occasion which the heathen or christian Indians select for their criminal attempts. Finally, for sowing wheat, corn, and other grain for pas-
121 ture for large and small cattle, the passage of the mails and mule
teams, it offers greater advantages as well for timber and wood, everything is near and more convenient, &c.

I fully approve of these views.

IGNACIO VALLEGO.

All that is reported above is what has been represented to me by the citizen, and I submit it for your gracious consideration in order that you may make such a decision as you may deem proper.

The commissioned sergeant of San Jose, Luis Peralta, in his official communication of the 22d of August last, informed me what you will yourself see by the accompanying copy, marked No. 1, in relation to the rev'd fathers of the mission of Santa Clara keeping their small cattle, horses, oxen, and milch cows in the range of the calaveras. I, being unacquainted with the location of said place, replied to the commissioned officer, which is marked copy No. 2, and in the execution of the same he went to reconnoitre the place, accompanied by the alcade and others, and informed me that the said
"sitio de las calaveras" belongs to the pueblo, as you will inform
122 yourself by referring to your original official communication, which
likewise accompanies this, marked No. 3. All of which I present to your superior consideration, in order that you will be pleased to direct me whatever appears to you should be done, and to answer the commissioned sergeant.

God preserve you many years.

Monterey, 20 Sept., 1809.

JOSE M. ESTUDILLO.

To Senor Governor and Inspector Don Jose Joaquin de Arillaga.

No. 1.—Copy.

The citizens and inhabitants have complained to me that the mission of Santa Clara have placed their small cattle, horses, oxen, and milk cattle in the calaveras range, and which they say belongs to the pueblo; and as I am

ignorant of the lines which divide the lands of San Jose and the pueblo, nor do I find any documents in the archives which will clear up this matter; I have made inquiries of most of the people of the pueblo, and none of them can give me an accurate information. My opinion is that it does not
123 belong to the mission of , but this mission. Thanks that it perhaps belongs to the mission of San Jose, and under this belief have placed their cattle there, as some time since they placed their small cattle on the "Rancho de Larios," on account of the expasture of the pueblo being destroyed and there being some danger of their dying; and fearing this very thing, the citizens have stated to me that they wished when their wheat harvest was over to send their oxen and tame horses to this range, (the calaveras,) and that of this place belongs to the pueblo the mission may immediately cease to occupy it, if you should think proper so to direct.

They represent, moreover, that in this same place much of the cattle of the pueblo are grazed, and that it is a common thing for them to be driven off, which is a great inconvenience, as they may penetrate into the recesses of the mountains.

Some of the citizens have their horses on the other side of the bank of the river, on the mission side, but they removed them on account of the reverend *some of the citizens had their horses on the other side of the bank*
124 *of the river, on the mission side, but they removed them on account of the reverend* fathers having complained of the same, and they brought them over to the pueblo side, and they thought of putting them in the said calaveras range, but I ordered them not to do so for the present until you decide in relation to it.

All of which I submit to you in order that you may come to such determination as you may think proper, and that I may be instructed what is the boundary line that divides the lands of San Jose and the pueblo, informing you at the same time that if the said territory of the calaveras belongs to the pueblo, it will be a great convenience to the citizens to drive their cattle thither, because it may happen that many of them will die as they have eaten up the pastures where they now are, and especially in the portion where the oxen feed, for the reason that the mission of Santa Clara has pastured their small cattle in the same place.

This is a copy taken from the official communication, which the commissioned sergeant of the pueblo of San Jose, Luis Peralta, sent me on the 22d day of August last, and which I certify to.

125 Monterey, 20th Sept., 1809.

JOSE M. ESTUDILLO.

Copy No. 2.

In the year 1806 the present governor of this district, being in the company of the sergeant Macario de Castro (since dead,) and to the alcalde of this pueblo, (who he was I do not recollect,) in order to settle the disputes between the citizens and the mission of San Jose in regard to the ownership of the lands, said governor was pleased to designate as the boundary between the mission and the pueblo, a hill which lies to the south of the rancho that was Jose Larios, and I recollect that the fathers promised to make a ditch from this point of said hill to the first small creek (esterito.)

As you did not inform me whether this territory of the calaveras is connected with this hill, or attached to what was the "Rancho de Larios," I cannot decide to whom belongs the range in which the padres of Santa Clara keep their cattle, which you will do at the first opportunity.

This is a copy of the original document, which, in my communica-
126 tion of the 15th of the present month of September, I sent to the com-

missioned sergeant of the pueblo of San Jose, Luis Peralta, which I certify to.

Monterey, 20th September, 1809.

JOSE M. ESTUDILLO.

Filed in office July 14th, 1852.

GEO. FISHER, *Sec'y.*

127 *Exhibit Q.*—1. S. D. K.

Puebla de Sn. Jose de Guadalupe, segun informe del Alcalde Mariano Castro reconoce pr. terrenos desde el parage de la Calera, distante al norte 2 R. leguas a la punto de los Esteros, hasta las Llagas el sudueste, distancia del pueblo cosa de 10 leguas, al sudeste queda la mision de Sta. Clara reconociendo po. limites la puerta de las Capitancillos, que llama de una lomita pedegrosa hta. el pie de la Sierra Madre, que corre por la costa de Santa Cruz, a distance de 4 leguas. De donde nacen dos arroyos que cornen en tiempo de ellas que derraman en la cienega grande dedonde se forma el Arroyo o Rio de Guadalupe, que pasa a 500 varas del pueblo, y sirve de divisorio con la mission de Santa Clara y su nacimiento queda a dista. deuna legua a sudueste, cubierto de monte, a la distancia de un cuarto legua tiene la suca de agua pa. el regadio de la comunidad del pueblo, cayas labores estan a su orilla, in distancia de ¼ leguas de norte.

Este terreno tiene Bosques en el redamadero nombrado del aoguage
128 y forma un arroyo seco que corre en tiempo de Aguas y con los stros dos demaran en las esteros que forma el puerto de San Francisco.

La sierra de la pante del oriente, corre de norte a sur cuya parte mas baja es la de la mision de S. Jose en donde casta por sus bajas lomas y forma canon pr. quedar en parte como desde ella al divesorio con la mision de Santa Clara mas de 2 R, legs. y poco mas o menos en su ancho hyta el arroyo de las Llagas este se seca. De esta sierra endonde ensancha nace un arroyo que tarribien se seca y en aguas abundantes riega las tierras y se levantan luenas casechas agui leven los ganados las que tienen po. abrevaderas toda la falda de la sierra cayo pie hay algumos grandes Bosques de roblar y en el parage del Tocayre otro como de una legua, siendo abrevaderos tambien lns orillas de los linderos divisorias y puerta de 1 Capitancillos en donde esta hay un gran encinal que sin ceatorse se en cuenta en las tierras de Santa Clara. De dichos linderos y lomita pedregosa muy cercano al pueblo cerca un pequeno roblar, que le nombran el ranchito.

2 S. D. K.

En esta estencion de terreno hay muicbicima tierra de temporal y las
129 principales y mas seguras son sin contigencia, las del Sausal que las bana el Arroyo del Aguage pr. las orrillas de las citades Bosques. Arriba del nacimto. del Rio Guadalupe a la orillo del Bosque estan 5 suertes de Tierra y a distancia de 4½ cita la laguna seca endonde hay 10 suertes de tierra.

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, do hereby certify that the two preceding and hereunto annexed pages of tracing paper, numbered one and two, and each of which is verified by my initials, (S. D. K.,) exhibit true and accurate copies from two pages of an unbounded book entitled "Cuaderno del Registro de los sitios y cenales que poseen los habitantes del territorio

de la Na. California," now on file and forming part of the said ar-
130 chives in my office.

In testimony whereof, I have hereunto signed my name officially,
[SEAL.] and affixed my private seal, (not having a seal of office,) at the city of San Francisco, this 10th day of December, A. D. 1851.

SAM'L D. KING,
Surveyor Gen'l, Cal.

Filed in office July 14th, 1852.

GEO. FISHER, *Sec'y.*

131 *Exhibit R.—Translation of Q.*

PUEBLO OF SAN JOSE DE GUADALUPE.

According to the (informe) official inquiry of the alcalde, Mariano Castro, he recognizes as the land of this pueblo from the line running (calera) as the standing point distant two and one-half leagues in a northwardly direction (from the town,) to the "esteros" (mouth of the river,) extending thence up to the "Llagas," a distance of about ten leagues from the town; on the southwest lies the mission of Santa Clara, recognizing as the boundary of the same the "Puerta de las Capitancillos," (the land lying near a little stony hill, so called,) up to the foot of the "Sierra Madre," which runs along the coast of Santa Cruz a distance of four leagues, whence two arroyos (creeks) take their rise, which flow in the wet season and issue out into the large swamp, constituting the beginning of the creek or river Guadalupe, which, at a distance of 500 varas, flows by the pueblo and serves as the dividing line from the mission of Santa Clara. The headwaters of this
132 river are about one league distant in a southwesterly direction and covered with woods.

At the distance of one-quarter of a league is the drain used for purposes of irrigation by the inhabitants of the pueblos, whose cultivated lands are situated upon its bank, at a distance of about one and one-quarter leagues to the north.

This tract of land contains groves in the low ground called "aguage," springs, and a dry creek is formed which runs in the wet season, and, with the other two, spreads out into the estero, which forms the bay of San Francisco, puerto de San Francisco.

The chain of mountains on the east runs from the north to south, the lowest of which belongs to the mission of San Jose, where there is a gap between the little low hills forming a canon, and at this point there is a distance between it (the mountain) and the dividing line of the mission of Santa Clara of something like 2½ leagues, a little more or less, the width of the tract up to the creek of "Los Llagas." The latter runs dry. From
133 the mountain where it issues out, rises a creek, which also dries up, and in the very wet seasons irrigate the lands and good crops are raised.

Here came the cattle for water, which have their ranges or drinking places along the whole skirt of the mountain, at the foot of which are several large groves of oak, and at the point called zogayo, distant about a league, there is another oak grove.

These "alrevaderos" (watering places) as well as the "Puerto de Capitancillos," lie upon the edges of the dividing line at the point of the latter, where stands now a large live-oak grove, which without any break in it extends into the sands of Santa Clara.

In this extent of territory much of the land is dependent upon the seasons, and the principal and most reliable are those of the sansal, which are watered by the Arroyo del Aguage and the edge of said groves.

Above the head of the river Guadalupe, on the edge of the grove, there

are six "suestes" of land, and at a distance of 4½ (leagues) the dry lake designates where there are 10 "sitios."

134 Filed in office July, 1852.

GEO. FISHER, *Sec'y.*

135 *Exhibit S.*—1 *S. D. K.*

Expediente Promovido por el T. Ayuntamiente de San Jose en pretencion del Senalamicen to de termino para El Fundo legal de dicha poblacion.

1837—No. 339.—2 S. D. K.

Muy Ilustre Ay'to:

Los cuidadanos Manuel Pinto, Jose Flores, Leandro Rochin, Luis Chabolla, Jose Anto, Sepulveda Domingo, Mesa Jose Hernandes, Anastacio Alviso, Jose Romero. A nombre de to do el pueblo: ante la notaria justificacion de V. S. como mejor ayan lugar en derecho se presentan y dicen, que siendo sujetores de que estando para peticionar de sitios algunos senores; en los que parese san egido de este pueblo, suplicamos a la integri dad de V. S. vea si se pueden suspender dichas poseciones hasta entretando se le de cumplimiento al reglamento que determina se aga el diseno aptan de jiros pertenecientes a los pueblos; si V. S. tiene a bien elevar a la superioridad del Senor Gobernador esta nuestra justa solicitud antes de
136 posecionar a los individuos, reconoceremos la detencion que cen rosotros se ejecuta.

Las circunstancias lejitimas que solicitamos es que el pueblo tiene preferencia por decir en el titulo que se da a todo individuo que no sera perjudicado mision, corporacion o pueblo y en est a parte aparese el perjuicio que a nuestro entender recibimos sin nombar le o senalar le los ejidos que pertenecen a est a poblacion. Por tanto a V. S. rendidamente suplicamos se sirva acceder a nuestra solicitud de que reciliremos gracia y que

(3 S. D. K.)

daremos reconocido. Pueblo de S. J. D'tre 21 de 1837—a ruego de los interesados por no saber firmar.

TOMAS PACHECO,
Juzgado de primera Instancia del pueblo de Jose Guadalupe.

Esta corporacion peribe la lensanda que acompana para su debida aprobacion. En consecuencia la misma corporacion tiene a bien elcbarla a la superioridad para que tome en consideracion que en alguna parte segun manego popectas hay algunas sucunciones con respecto a los vienes y tierras

(5 S. D. K.)

en tal virtud pa su parte la misma corporacion pide el senalam'to de
137 terreno pa usar comunidad siendo benefico en el resultado de su pago a canon que cad a una aya; siviendose decir provicional lo que to cadespues de saber los limites de me pueblo y sigueremos dando lugar a los poseciones consedidas lo que tengo el honor solicitor a la superioridad por

(6 S. D. K.)

beneficio publico y endenago de mi atribucion es apurar la materia. Dios y libertad.

Pueblo de S. Jose Guadl., D'tre 23 de 1831.

JUAN ALVAREZ.

Sor Gefe Politico interino del departamento:

Vista la solicitud de varios vecinos del pueblo de Sn Jose la comuni-

[SELLO.] cacion oficial del alcalde de d'ha municipalidad recomendando en nombre del ayuntamiento respectivo el asunto a que se contrae y siendo una de las atrebuciones de otha corporacion proponer al gob'or todo lo relativo a la formacion de los ordenanzas municipales dedoude parte el arreglo total de la polecia devuelvo a V. los documentos adjuntos a fin de que presentandolos al ayuntamiento se nombre una comicion de dentro a fuera de el a efecto de levantor un plano diceno del terreno que deve senalar se pa su
fundo legal previos los informer respectivos sobre las propiedades
138 comocanas y con esprecion la mas exacta de las distancias y sus rumbos ognayes arboledas &c., que se compreddan. Evacuanda est a formaiidad volvera el exped'te al gob'no para su resolucion.

Dios y Libertad.

8 S. D. K.

Monterey, Diciembre 24 de 1837.

JUAN B. ALVARADO.

9 S. D. K.

Senor alcalde del pueblo de S'n Jose :

En vista del superior decreto que antecede fha veinte y cuatro de E'tre de mil achoanetos treinto y siete relativo al nom bramiento de una comision que necesarianente : hasta debe levantar un plano diceno pa el terneno y limitss de est a poblacion en cuya virted ests ayuntamiento d'ha orden y al reclamo que asi mismo antepone este vecindario p'r lo tanto se tuvo a bien nombrar comisionados a los Ciudadados Giudermo Castro Guilermo Gulna c y Salvio Pacheco, los cuales en acto continuo y presentes en este juzgado se les hiso saber sunombramiento a lo que se prosedio tomarles su juramento y pregun tarlos jurar a Dios Atro. Senor desempenar el encargo que pur un
pueblo se os a hecho dando en consecuencia hn cada uno lo que tocare
139 en devecho y de hacer de su parte todo con lo que fuera de su saber hasta alconzar dejar en aclaracion est as propriedos de que seban y puedan subsister sus habitantes en pacifica armonia contestaron ambos tres cuidadanos que si juraban prometiendo hacer todo lo posible segun su escaso saber e inteligencea par lo tanto quedan reconocidos para empleados en servicio desde este dia veinte de M'zo de mil achocientos trienta y ocho. Concluido que fell este acto firman conmigo alcalde constitucional.

DOLORES PACHECO.
GUILLERMO CASTRO.
GUILLERMO GULNAC.
SALVIO PACHECO.

10 S. D. K.

En el pueblo de Sn Jose Guadalupe a los veinte y dos dias del mes de Marzo de mil achocientos treinta y acho reunidos los Senores comisionados en la salo consistorial del espresado pueblo en cesion de este dia huzo la proposicion el Comicionado Salvio Pacheco que esta a su Alcance hacer presente a la comision que paradar principio al encargo que el publico be confiere a via la neceaidad, de un secretario para actuar asuntos tan interesantes para
que la comision hobrase en todo confirme estilo y conveniendo ha tal
140 proposicion se seguio el nombramto en el comisionado Salvio Pacheco quien prometio y juro ser nuevo el empleo desempenando pa esta vez tal servicio. Concludo que fue el acta lo da firmardo.

GUILLERMO CASTRO.
GUILLERMO GULNAC.
SALVIO PACHECO.

En acto continuo la comision puesto en ejercicio de su dever hizo las proposiciones siguientes al comisionado Guillermo Castro que dice los limites de hesta poblacion sepan conocerse propios aquellos puentos senalados y que antiguamte fueron reconosidos pr dos pobladores y dados pr aquellos

11 S. D. K.

autoridades de su jurisdiccion poco despues segun ensitutaf se nos presentan y mas como he sabido que pa soto el nordete pr Vtl y el nacimto del Rio de Guadalupe Norute para el Vte ser an reconocido segun majoneras faltando a conocer punto a los demas vientos parese necesario acondar pr estos motivos reconocidos que fuesen les demas vientos como sea d'ho luego awemof cuantas varas o sitios sera conveniente hacer el senalamiento al terreno conosiendose por propuos y ejidos a esta problacion pa que
141 amas de los vienes de campo que hoy dia tiene y tierras de cabor que cultiva pueda progresar agreyando a la esposicion que a no menester la comision en certar los puentos antiguambtl senalados vista mas terreno conociendo perjuicio aya en algun circumbecion siempre no dejando la comision de puiblo la comodidad y proporciones pa la cria de vienes de campo a que es la mas interesante hoy dia en su comercio de que equalmante pende la subsistencia de los familios a lo que tormando la palabra el Sor Guillermo Gulnac, agreya que las basas de tierra que merece un pueblo lor dejarian al conocomto y medidos del Gobierno y que solo tirarian las medidas para dar con destresa una paun sabinear y medidos pocononendo sututamte el Arroyo de las Llagae punto conocido para esta parte todo la d'ho y espuesto quedo la sesion—para el siguiente dia.

GUILLERMO CASTRO.
GUILLERMO GULNAC.
SALVIO PACHECO.

12 S. D. K.

El dia veinta y tres de Marzo de mil ochocientos treinta y ocho en segunda reunion que la comision tuvo a bien y en el acto de dar la lectura del anto del dia anterior tomo la palabra el Su Guillermo Castro y dice que a tanta cantidad de tierra que le sabe conocer segun la vesta nos presenta
142 hasta el Puento de las Llagas como se ha d'ho pr evitar parte pueden entrar en este tramito o intermedio algunos sircumbencinos que ya teniendo el prestamo de terreno pa los ayuntamtos han alconzado por ultimo la gracia de propiedad parece que pr esta razon hay incovente que en estos terrenos entren los medidas y que los interesados puedan alegar el derecho de propiedad lo que paso a discucion y en el mismo acto tomo la palabra el Sr Pacheco y propone que las Razones de propiedad o posecion devianse practicar con legaledad y sin perjudicar a pueblo a corporacion segun nos impune A. R. Sus de ca ley de colonizacion y parones muy conocidas que cuando hay denuncio o parte quejosa desde luego debe quedar pr nula la posecion y para eso queda salvo el derecho sanestando aparte que se hubo algunas inadvertenciasal tiempo de dar las por esto en caso de que quedaren adentro de los ejidos algunos propiedades se supteran al estilo de comunidad

13 S. D. K.

inter-tanto llegare los leyes que los sujete a un canon que hasta los mismos pueblos deban sujetar se a lae leyes diciondolo con respecto a career la comision del numero de terreno que debe gozar una poblacion t an
143 cap az de ocupav seis o mas sitios que antiguamtl los tenia ocupados, aparte que sea seaer que pr estos puntos hay cosas muy necesacias ; que se ben dejarse libres en beneficio publico como son maderas de fincas &c., que los pueblos no han de quedar contributarios pa lo tanto despues de

medir el terreno como sea otho el Govno con arreglo a leyes propiedades y todo lo que en los autos se contiene dispondra quidando salvo el derecho de alejar el pueblo lo que considere ha su favor sino fuere conforme todo lo dho aprobrade despues de bien discutido siendo unaimes en todo lo relativo y prhscrito los inconvinientes que pudieran mostrarse quedando de a cuerdo y concluida que fue el acto se da firmada pa sa puntual observancia protestando la comision los mas sinceros deseos al servicio publico.

GUILLERMO CASTRO.
GUILLERMO GULNAC.
SALVIO PACHECO.

14 S. D. K.

En la sala consistorial del pueblo de S. Jose Guadalupe el dia veinte y cuatro de marzo de mil ochocientos treinta yocho prosedio la comision al mombramiento de dos tertigos que deben presenciar las medidas de este terreno y da otros dos pasos que sirvan en tirar el cor-
144 del de lo que ya hecho. Cargo de sus nombramt'o los primeros que lo son Salvador Garcia y Toma's Pacheco y para el segundo quedan aserlo Isidoro Sivrian y Fran'co Garcia los que en auto continuo se hicieron presentar ante mi y preguntando a los primeros, jurar a Dios Atro tor desempenar el encargo en que os ocupa un publico contestaron que si juraban correlativamt'e preguntado a los segundos y contestan con los mismas proposiciones de juramt'o en seguida se prosedio al elamamiento de la vara de medir la que fue vista y dijeron testigos que era conforme la regla Castellana y que tenia treinta y seis pulgados con la que en presencia de ambos fue medido uncordel de docientas varas para proseder a las medidas que con arreglo a la ley colonial de colonizacion se debe verificar; lo que se prosedio con los antes thos testigos y comiconados su juramt'o y medidas de cordel y vara.

SALVADOR GARCIA.
TOMAS PACHECO.
ISIDRO SIVRIAN.
FRAN'CO GARCIA.
SALVIO PACHECO.

El dia veinte y cinco del mes de marzo de mil ochocientos treinta y ochoo tubo a bien la comision pasar al oriente puestos ya en el monte y
145 puesto conosido por terreno de esta jurisbicion bajo la encina que se conose antiguamente por linea divisoria se tiro la primera de Nordst'e

15 S. D. K.

a S. Et'e que corre por la sierra o montes que yaman los Buelles, pala S. Felipe, las animas y aguajes de las LLagas en ambos puntos y en el intermedio de otho pala conforme se concluian les medidos se hizo construir sus correspondientes majoneras de Piedra firme y del puesto primero; y otho se dispuso tirar la otra linea segun se menciono para terrenos propios del espresado pueblo y de no perjudicar parte alguna uue resulto corriendo esta linea de Noratt'e a p-E'o a sur E'te p'a Ot'a hasta el embarcadero en la enena ultima que se ve a la orilla del Rio de Guadalupe su embocadero propio de este punto pasando otha linea aser a la leasa del becino Jose Higuera al extenso de cuatrocientos diez varas uuedaron esta fuera resultaron medidas dos leguas ochocientas sesenta y tres varas que Realmt'e es su longitud igual ha esta en los del sur que queda p'a la linea divisoria el arroyo
146 de las Llagas y de latitud segun se ha otho y medido desele este punto al citado embarcadero hay medidos once leguas y media avi-

endsse concludio estas medidas de longitud se paso a tomar el Rumbo del Nacimiento del Rio de Guadalupe o puerta de Capitanillos que adjunto la brupita puestos entho nacim'to de rio a la encina que lerte este se be esto encumbrado del monte y loma pequena chansisatosa que se mira antes en medio del bosque y Roblar a rumbos de Nordueste p'a el Ut'e y del arroyo de las hubas se tiro la ultima linea a esta puerta de Capitanillos que e otho

16 S. D. K.

p'r los vientos de U'te p'r el Norest'e a E'a en estos vientos y lineas tiradas aseguramt'e se padeci) al que escribio al tiempo de poner sus mohoneras pues se ven muy internos a los limites de hesta poblacion y linea del Norest'e p'a el Ut' que divide las terrenos de este y la brisa mision de S'te Clara y parece conviniente reclamar su traslado de mohoneras en punto legitimos y prefijo segun rumbos, othos la vue ante me queda firmado p'a los antes Dt's testigos y consecion de que doy fe.

SALVADOR GARCIA.
TOMAS PACHECO.
ISIDRO SIVRIAN.
147 FRAN'CO GARCIA.
SALVIO PACHECO.

Aliendose concluido los antos con respecto al terreno y medidas que se han practicado p'a este pueblo en cuya virtud tiene a bien la comision remitir los al respectivo Ayuntamiento con sujugual Diceno que se a compano p'a que hobre como convenya en cuatro fajas de papel utiles. Dispensando la falta de papel sellado que no hay.

SALVIO PACHECO.

17 S. D. K.

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR THE STATE OF CALIFORNIA.

I, Samuel D. King, surveyor general of the United States for the State of California, and as such now having in my office and under my charge and custody, a portion of the archives of the former Spanish and Mexican territory or department of California, do hereby certify that the seventeen preceding and hereunto-annexed pages of tracing paper, numbered from one to seventeen, inclusive, and each of which is verified by my
148 initials, S. D. K., exhibit true and accurate copies of certain documents now on file, and forming part of the said archives in my office.
In testimony whereof I have hereunto signed my name officially and affixed my private seal, (not having a seal of office,) at the city of
[SEAL] San Francisco, Cal., this tenth day of December, 1851.

SAM'L D. KING, *Surveyor Gen'l, Cal.*

Filed in office, July 14, 1852.

GEO. FISHER, *Sec'ry.*

(Here follows map page 48.)

149 *Exhibit T.—Translation of S.*

The expediente judicial papers instituted, &c., forwarded by the illustrious ayuntamiento of San Jose, claiming the laying out, by the boundaries, of the lands (fondo legal) of right belonged to the inhabitants of San Jose.

1837. No. 339.

To the most illustrious ayuntamiento:

The citizens Manuel Pinto, Jose Maria Flores, Leandro Rochen, Luis Chabolla, Jose Antonio Sepulreda, Domingo Mesa, Jose Hernandez, Antonio Alviso, and Jose Romero, in the name of the whole population, present themselves before you, and to your well-known equity, and in the manner prescribed by the laws, represent that, having learned that your are about to put certain persons in possession of the tract of land (sitios) which, in our opinion, are the common property of the inhabitants of this pueblo, (eguidos,) we appeal to your sense of justice to suspend, if possible, said acts of possession until, in the mean time, the regulation is complied
150 with which requires a map of the circumjacent lands belonging to the pueblos.

If you will have the kindness to submit to his excellency the governor this our reasonable request before these said individuals are put in possession, we shall appreciate the attention extended to us.

What we lawfully claim is this, that the pueblo, when a title to land is made to any individual, shall have the privilege of first deciding that neither the mission, corporation, or town will be injured thereby; and in this instance the injury that, in our opinion, we would receive without first pointing out and designating by landmarks the commons (ejidos) that belong to the inhabitants of this town is very apparent. For which reasons we humbly pray you will be pleased to accede to our petition, by which a favor will be done us that we shall greatly appreciate.

Pueblo of San Jose, December 21, 1837.

(Signed) TOMAS PACHECO.

For and at the request of the aforesaid citizens, who do not know how to write their names.

151 Court of first instance of the pueblo of San Jose de Guadalupe.

The accompanying application is handed to this court for its approval, which it desires, and consequently it has thought proper to send it up to the superior authority, in order that it may take into consideration that in some places, by reason of the manner in which the people manage these matters, disputes arise in relation to property and lands, for which reason this court also, on his own behalf, recommends the making out of land for the common use of the inhabitants of the pueblo, the result of the tax, (pazo a canon,) which every one pays, being highly beneficial. At the same time you will be pleased to indicate provisionally, what it is in the next place of importance to know, the boundaries of a pueblo, and we will then proceed to locate the grants and give the possession of the same.

All of which I have the honor to pray at the hands of the higher authority, for the public benefit, and in the discharge of my duty to clear up the bnsiness.

God and liberty.

152 Pueblo of San Jose, Guadalupe, December 23d, 1837.

(Signed) JUAN ALVIREZ.

To his excellency the provisional governor of the department:

In consequence of the petition of said citizens of the pueblo of San Jose, the official communication of the alcalde of the said municipality recommending, in the name of the ayuntamiento of said town the matters therein contained, and it being one of the functions of said court to propose to the government everything relative to the formation, regulations, and where

the entire system of administration, I return to you the accompanying documents, in order that when they shall have been handed to the ayuntamiento this body may appoint a commission of its own members, or of other persons, for the purpose of making a plan or map of the lands that are to be laid out as the legal endowment of the town, (fondo legal,) first obtaining the proper information in regard to the neighboring estates, and with the most accurate description of the distances and names of the owners and the springs, groves, &c., contained thereon.

153 When these prescribed formalities shall have been complied with return this espediente for the decision of the government.

God and Liberty, Monterey, December 24th, 1837.

JUAN B. ALVARADO.

To the alcalde of the pueblo of San Jose:

In accordance with the preceding decree of the government, dated the 24th day of December, in the year 1839, relating to the appointment of commissioners who are to make a plan or map of the lands and their boundaries belonging to the inhabitants of this town, therefore this ayuntamiento, duly respecting said decree, and the aforesaid claim preferred by the citizen of this pueblo, has for the reasons thought proper to appoint Guillermo Castro, Guillermo Gulnac, and Salvio Pacheco, citizens of said pueblo, of commissioners, who, at the same time being present in this tribunal, were informed of their appointment, and having taken the oath of office, and the question being put to them, "Do you swear to God our Lord to discharge the duties of the trust that has been conferred on you by the public, conscien-

154 tiously to each one that which lawfully belongs to him, and as far as you are concerned using your best ability and knowledge, until you succeed in having plainly marked out said lands on which the inhabitants can and should subsist in peace and harmony?"

To this the three citizens aforesaid replied that so they swore, promising to do all in their power to the extent of their limited knowledge and intelligence, for which reasons they are recognized as engaged in the service of the public from this day, the 20th of March, 1838, and at the conclusion of this act they subscribed with me the constitutional alcalde.

DOLORES PACHECO.
GUILLERMO CASTRO.
GUILLERMO GULNAC.
SALVIO PACHECO.

In the pueblo San Jose de Guadalupe, this 22d day of the month of March, 1838, the aforesaid commissioners having met in the constitutional hall of said pueblo, during this day's session the commissioner Salvio Pacheco made this proposition, which he makes known to best of his ability to the commission:

155 That the initiatory step to be taken in entering upon the discharge of the trust which the public had conferred upon them was the necessity of appointing a secretary to keep a receipt of such interesting proceedings, whereupon the commission, in conformity to law, and in accordance with the above proposition, proceeded to appoint Salvio Pacheco one of the commissioners, who promised and took a new oath for this service, and at this session entered upon the discharge of the duties of his apartment.

Having concluded this act it is subscribed by the commissioners.

GUILLERMO CASTRO.
GUILLERMO GULNAC.
SALVIO PACHECO.

At the same session, the commission having entered upon the discharge of their duties, the commissioners Guillermo Castro made the following proposition:

1837. No. 339.

To the most illustrious ayuntamiento:

The citizens Manuel Pinto, Jose Maria Flores, Leandro Rochen, Luis Chabolla, Jose Antonio Sepulreda, Domingo Mesa, Jose Hernandez, Antonio Alviso, and Jose Romero, in the name of the whole population, present themselves before you, and to your well-known equity, and in the manner prescribed by the laws, represent that, having learned that your are about to put certain persons in possession of the tract of land (sitios) which, in our opinion, are the common property of the inhabitants of this pueblo, (eguidos,) we appeal to your sense of justice to suspend, if possible, said acts of possession until, in the mean time, the regulation is complied
150 with which requires a map of the circumjacent lands belonging to the pueblos.

If you will have the kindness to submit to his excellency the governor this our reasonable request before these said individuals are put in possession, we shall appreciate the attention extended to us.

What we lawfully claim is this, that the pueblo, when a title to land is made to any individual, shall have the privilege of first deciding that neither the mission, corporation, or town will be injured thereby; and in this instance the injury that, in our opinion, we would receive without first pointing out and designating by landmarks the commons (ejidos) that belong to the inhabitants of this town is very apparent. For which reasons we humbly pray you will be pleased to accede to our petition, by which a favor will be done us that we shall greatly appreciate.

Pueblo of San Jose, December 21, 1837.

(Signed) TOMAS PACHECO.

For and at the request of the aforesaid citizens, who do not know how to write their names.

151 Court of first instance of the pueblo of San Jose de Guadalupe.

The accompanying application is handed to this court for its approval, which it desires, and consequently it has thought proper to send it up to the superior authority, in order that it may take into consideration that in some places, by reason of the manner in which the people manage these matters, disputes arise in relation to property and lands, for which reason this court also, on his own behalf, recommends the making out of land for the common use of the inhabitants of the pueblo, the result of the tax, (pazo a canon,) which every one pays, being highly beneficial. At the same time you will be pleased to indicate provisionally, what it is in the next place of importance to know, the boundaries of a pueblo, and we will then proceed to locate the grants and give the possession of the same.

All of which I have the honor to pray at the hands of the higher authority, for the public benefit, and in the discharge of my duty to clear up the bnsiness.

God and liberty.

152 Pueblo of San Jose, Guadalupe, December 23d, 1837.

(Signed) JUAN ALVIREZ.

To his excellency the provisional governor of the department:

In consequence of the petition of said citizens of the pueblo of San Jose, the official communication of the alcalde of the said municipality recommending, in the name of the ayuntamiento of said town the matters therein contained, and it being one of the functions of said court to propose to the government everything relative to the formation, regulations, and where

the entire system of administration, I return to you the accompanying documents, in order that when they shall have been handed to the ayuntamiento this body may appoint a commission of its own members, or of other persons, for the purpose of making a plan or map of the lands that are to be laid out as the legal endowment of the town, (fondo legal,) first obtaining the proper information in regard to the neighboring estates, and with the most accurate description of the distances and names of the owners and the springs, groves, &c., contained thereon.

153 When these prescribed formalities shall have been complied with return this espediente for the decision of the government.

God and Liberty, Monterey, December 24th, 1837.

JUAN B. ALVARADO.

To the alcalde of the pueblo of San Jose:

In accordance with the preceding decree of the government, dated the 24th day of December, in the year 1839, relating to the appointment of commissioners who are to make a plan or map of the lands and their boundaries belonging to the inhabitants of this town, therefore this ayuntamiento, duly respecting said decree, and the aforesaid claim preferred by the citizen of this pueblo, has for the reasons thought proper to appoint Guillermo Castro, Guillermo Gulnac, and Salvio Pacheco, citizens of said pueblo, of commissioners, who, at the same time being present in this tribunal, were informed of their appoinment, and having taken the oath of office, and the question being put to them, "Do you swear to God our Lord to discharge the duties of the trust that has been conferred on you by the public, conscien-

154 tiously to each one that which lawfully belongs to him, and as far as you are concerned using your best ability and knowledge, until you succeed in having plainly marked out said lands on which the inhabitants can and should subsist in peace and harmony?"

To this the three citizens aforesaid replied that so they swore, promising to do all in their power to the extent of their limited knowledge and intelligence, for which reasons they are recognized as engaged in the service of the public from this day, the 20th of March, 1838, and at the conclusion of this act they subscribed with me the constitutional alcalde.

DOLORES PACHECO.
GUILLERMO CASTRO.
GUILLERMO GULNAC.
SALVIO PACHECO.

In the pueblo San Jose de Guadalupe, this 22d day of the month of March, 1838, the aforesaid commissioners having met in the constitutional hall of said pueblo, during this day's session the commissioner Salvio Pacheco made this proposition, which he makes known to best of his ability to the commission:

155 That the initiatory step to be taken in entering upon the discharge of the trust which the public had conferred upon them was the necessity of appointing a secretary to keep a receipt of such interesting proceedings, whereupon the commission, in conformity to law, and in accordance with the above proposition, proceeded to appoint Salvio Pacheco one of the commissioners, who promised and took a new oath for this service, and at this session entered upon the discharge of the duties of his apartment.

Having concluded this act it is subscribed by the commissioners.

GUILLERMO CASTRO.
GUILLERMO GULNAC.
SALVIO PACHECO.

At the same session, the commission having entered upon the discharge of their duties, the commissioners Guillermo Castro made the following proposition:

That the proper boundaries of the land belonging to the inhabitants of this pueblo should be recognized to be the identical landmarks marked out, and which were in old times known as such by the old colonists, (pobladores,) and given by the proper authorities of those days a short time after the foundation of the pueblo, as appears from documents submitted
156 to us; and, moreover, as it is well known that only on the northwest by west, and to the headwaters of river Guadalupe northwest by west, have been indicated by monuments; but for want of knowing the landmarks in other points of the compass, it appears to be necessary to agree for these reasons, (recognized as the other points were, as has been stated,) that we should then declare how many varas or sitios should properly be designated as lands recognized as the reservations (propios) and commons for the neighboring, (egidos,) so that, besides the cattle which they now own and arable lands which they cultivate, they may be adding to the above advance their prospects, and that the commissioners (without interferrng to curtail the extent of land embraced between points marked out in olden times, and without grasping more land when requested may be done one in the neighborhood) may not fail carefully to guard against any want of accommodation and conveniences for the raising of cattle, which is now very important as regards trade, and upon which equally depends the subsistence of families. Whereupon Mr. Guillermo Gulnac, taking the floor, added that they should leave to the decision of government the number of varas
157 of land that as pueblo is entitled and that they should merely draw the surveys in order to give, with precision, a just system of lines and boundaries recognizing distinctly the Arroyo de las Llagas as a landmark well known for this part of the land, all which propositions remained over for discussion to the next day.

GUILLERMO CASTRO.
SALVIO PACHECO.
GUILLERMO GULNAC.

The 23d day of March, 1838, on the second reunion of the commissioners, it was thought proper in this day's act to read over the proceedings of the previous session, whereupon Guillermo Castro took the floor and said that, in relation to the recognition of such a quantity of land as was embraced by the eye up to the point of "Las Llagas," as has been proposed, there may be found in this point, within this circuit or intermediate space, some of the neighbors who, having already had the loan of the land from the ayuntamiento, have recently obtained the gift of proprietorship in the same. It would seem inconvenient for these reasons that these lands should
158 be embraced in the survey, and that the parties interested might allege the right of ownership; which was laid over for discussion. And at the same time (acts) Senor Pacheco took the floor and proposed that the right of proprietorship or possession should be exercised according to law, and without prejudice to the pueblo and corporation, as pointed out by the 10th article of the colonization law, of and on the well-established principles that where there is a denouncement or party makes a complaint the possession from that time is null and void, and in these cases the right of reclamation remains secure, as also is the case if there were regulations at the time of making the grants; for which reason, if there are any private lands within the commons belonging to the pueblo (egidos) they are subject to the custom of the community, (until the law is recorded,) which subjects them to a tax canon, and that even the pueblos themselves should be subject to the laws.

He said this in relation to the commission, not knowing the quantity of land that should be enjoyed by the inhabitants of a pueblo, so capable of occupying ten or more sitios (leagues) which they formerly had in

159 occupation, and for the further reason that in the proposed district there are very necessary things that should be left free for the public benefit, as building timber, of prime necessity, and stone, lime-kilns, , &c., in order that the pueblos might not be dependent for these things.

Wherefore, after the survey of, as has been proposed, the government will decide these matters in accordance with rights of proprietorship, and all that is contained in the decrees, the right of the pueblo to allege whatever she considers in (if she does not approve of it) remaining intact.

All the aforesaid propositions was, after much discussion, approved, there being but one mind on the subject, and foreseeing the inconvenience that might otherewise they remained of one accord; and when this act was finished they subscribed it for its punctual observance, the commissioners protesting that for the public good.

GUILLERMO CASTRO.
GUILLERMO CASTRO.
SALVIO PACHECO.

In the constitutional hall of the city of San Jose de Guadalupe, the 24th of March. 1838, the commissioners proceeded to the appointment of the witnesses who are to be present at the survey of the land, and two others
160 to convey the claim, (cordel,) and who have already been put in charge of the appointments, the first of whom are Salvador Garcia and Thomas Pacheco, and the second appointed for this work are Isidro Cyorecen and Francisco Garcia, who, at the same time, having been brought before me, and the question being asked of the two of them, "Do you swear to God our Lord to discharge the duties assigned you by the public?" they answered yes; they swore to do so.

In the same manner the second two were questioned, and they made the same response, and went through the same forms of the oath.

They then proceeded to the measurement of the vara to be used in the survey, and the witnesses stated that it conformed to the Castellian rule, and that it was thirty-six inches long, in which, in presence of both, they proceeded to measure a chain of two hundred varas, in order to proceed with the survey, which are required by the colonial law of colonization, and which was done in presence of the aforesaid witnesses and commissioners, and who subscribed their names to their oath, and the measurment of the chain and vara.

THOMAS PACHECO.
FRANCISCO GARCIA.
SALVIO PACHECO.

SAL. GARCIA.
ISIDRO SYVICAN.

On the 25th day of March, 1838, the commissioners thought proper to pass to the east, and having stationed themselves (for a starting point) in the woods and point known as the boundaries of this jurisdiction, under the live-oak known from ancient times as being on the dividing lines,
161 they ran the first line from northwest to southeast, which passes through the Luna Mountains, which are called "Las Luellas," "Pala," "San Felipe," "Las Animas," and "Aguage de las Llagas," at both ends of this line, and in the middle of the said Pala. As soon as the survey of this line was finished they caused to be erected the corresponding landmarks of stone, in a substantial manner; and from the first point already mentioned they proceeded to run the other line in accordance with what was acknowledged to be the lands belonging to the aforesaid pueblo, and so as not to injure any person, which resulted in their running said line from northeast

to southwest by west, up to the embarcadero, to the last live-oak that is seen on the bank of the river Guadalupe and its embarcadero; said line passing near the house of the citizen Jose Higuera, and distant from it 410 varas, the house being outside the line, which line measured two leagues eight hundred and seventy-three varas, which really is its width, (longiiude,) equal to which is the southernline where the Arroyo de las Llagas is the dividing line; and the line run from this point to the embarcadero, according to the declaration and survey, has for its length (latitude) eleven hundred and a half.

Having concluded these measurements of the width and length, they proceeded to take bearing from source of the river Guadalupe to the Puerta de Capitancella, which the compass took the direction of, stationing
162 themselves at said source of the river, the compass pointing towards the live-oak which is seen from this in the elevation of the wood or small hill covered with chapperal, which was formerly seen in midst of the grove and oak woods, the bearing being northwest by west; and from the Arroyo de las Llagas they draw the last line to this Puerta de Capitancillos, which said line, as I have said, is seen from the compass from west-northwest to east-southeast. In these bearings and lines, which were run in old times, there appears to have been a mistake in placing the monuments, as they are now found to be much within the boundaries of the lands belonging to the inhabitants of this pueblo, and within the line on the northwest by west which divides the lands of this pueblo from the neighboring mission of Santa Clara, and it appears proper to demand that the monuments be moved to where they legitimately belong, and to correspond with the aforesaid bearings. All which was subscribed in my presence by the aforesaid witnesses and commissioners which I certify to.

THOMAS PACHECO.
FRANCISCO GARCIA.
SALVIO PACHECO.

SALVIO GARCIA.
ISICERO SYVICAN.

The commissioners having executed the deed in relation to the lands, and concluded the surveys which they have made for this pueblo, therefore deem it proper to remit them to the proper ayuntamiento, with the corresponding map which accompanies it, in order that they may take such action as may be proper, contained in four leaves of paper written on. Excuse the want of stamped paper, as there is none.

163 SALVIO PACHECO.

Filed in office July 14th, 1852.

GEO. FISHER, *Sec'y.*

Exhibit X, P. L, annexed to dep. of Josiah Belden, Sept. 27, 1854.

Don Pedro Fages, lieutenant colonel of the royal army, and governor of Old and New California:

Inasmuch as the title 14 of the royal regulation which governs in this peninsular is provided the mode of distributing solars and suertes of land, with all else relating to cultivation, and raising of cattle, and the establishment and advancement (formento) of pueblos of civilized people, (gente de razon,) which may be located in the territories adjacent to the presidios of these new establishments, and it being convenient to practice the formalities requested in giving possession to the citizens of San Jose de Guadalupe, in order that they may subsist in peace and quietude, therefore, I commission D. Jose Morega, lieutenant commandant of the presidio of San Francisco, to

proceed to the said pueblo, and, conformably with the instructions contained in the aforesaid royal regulation, give possession in the name of his majesty (whom God preserve) to each one of the settlers of the suertes and solares which are destined for them, proceeding by formal acts, (actos,) and in continuation of this mandate, forming for each one of the parties in
164 terested despacho, with inserted of a copy of this espediente, and of the proceedings relating to each; he will remit the same for confirmation, in order that this government, in view thereof, determine as may seem convenient, enjoining that it must appear (in said espediente) that the citizens are made aware of what is *reading*, and what is common, (comun,) as the ejidos, watering places, feed, &c., that it must be expressed in each dispatch and proceeding giving possession, that it is received and admitted, subject to the condition and penalties which the said instructions imposes, as well as the privileges, favors, and exceptions with which the sovereign makes the grant; and all must sign, or some other by their request, with the commissioner himself, and witnesses; and lastly, that in the principal Book of Records an entry shall be made of their possessions, as well as of the branding irons, (for marking the cattle,) which are to be given to them; of all which a certificate transcript (testimonio) is to be obtained, and archived in the presidio of San Francisco.

Monterey, Oct. 24th, 1782.

PEDRO FAGES.

In the pueblo of San Jose Guadalupe, on the 13th day of the month of May, of the year one thousand seven hundred and eighty-three, I, D. Jose Moraga, lieutenant commandant of the royal presidio of San Francisco,
165 in pursuance of the mandate which precedes, must proceed to its punctual fulfillment; and as the said instructions in article 4 and 5 declares, &c., (here is inserted verbatim the 4th and 5th articles, title 14 of the regulation of the 24th October, 1781;) being fully aware of all which, it is my duty to command, and I do hereby command, that immediately, and in the said pueblo, day, month, and year, I proceed with those of my assistance, and the settlers of the arable lands, and measurement having been first made two hundred varas in length and two hundred in breadth of each suerte, I give possession to the said Alcalde Ignacio Architeta of the four suertes of land to which he is entitled, all irrigable; then there being sufficient of the description provided for in the instructions for pueblos of civilized people, (gente de razon.) Here is the description which is omitted. The possession given with the said formalities and requisites expressed in the foregoing proceeding relating to the solar of the said Ignacio Architeta, and I did the same with those of my assistance.

JOSE MORAGA.
JOSE TIBURCIO VAZQUEZ.
FELIPE FAPIA.
JUAN JOSE PERALTA.

The next act is that of delivering the branding irons for marking cattle. The formalities practiced in giving possession to the other settlers are precisely the same, after which follows the designation of ejido, and
166 setting apart suertes of land for propios of the pueblo.

In the pueblo of San Jose de Guadalupe, on the 17th of May, of the year one thousand seven hundred and eighty-three, I, D. Jose Moraga, lieutenant commandant and commissioner for the execution of the proceedings, in duty ought to, and do, order the acts of giving possession of the solares and suretes of the land to which each settler of the said pueblo is entitled; being concluded that, I do proceed with them to the lands of the part to the ——

of this pueblo and its river, and the measurement having been made from the ——, and the river below, with the boundary which divides the lands of the said pueblo from those of the said mission of Santa Clara, from such measurement, there resulted 1,758 varas to the said boundary. Of this quantity the half is designated for propios of the pueblo, and the remainder is to be considered royal land, (realengo,) with all the rest of the same which is not comprehended in the portions of which possession has been given to settlers; and for ejidos of the said pueblo there is designated all the —— fifteen hundred varas in length and seven hundred in breadth, with all of which I made them fully acquainted, and they unanimously said that they understood as well what belonged to their respective possessions as what was propios of the pueblo, and what royal land (realengo,) with all else which has been made known to them; and not knowing how to sign, Jose Tiburcio Bazquez did at the request of all. I did the same with the present witnesses, which I authenticate.

167 JOSE MORAGA.
JOSE TIBURCIO BAZQUEZ.
FELIPE TAPIA.
JUAN JOSE PERALTA.

Filed in office Sept. 27, 1854.

GEO. FISHER, *Sec'y.*

When the proceedings shall be concluded with the execution of whatever may be justly required, the original being remitted to the governor for his approbation, or for the purposes for which to him may seem meet, and that a copy remain in the archives under my charge.

This I have ordained, decreed, and signed, which I authenticate.

JOSE MORAGA.

In the same pueblo, day, month, and year above expressed, I, the said lieutenant commissioner of the possession and repartamento of solares and suertes —— of land to the settlers of the pueblo of San Jose de Guadalupe, in view of the act which precedes, it being indispensable in order to execute it to appoint assisting witnesses during the progress of the proceedings, do name for that purpose the soldiers Felipe Tapia and Juan Jose Peralta, whom I made aware of the contents of this appointment, in order that, in view of the circumstances corresponding, they might obligate themselves to give them assistance in the respective acts.

Thus I have decreed, ordered, and signed, which I authenticate.

JOSE MORAGA.

168 In the said pueblo, day, month, and year aforesaid, I, the said lieutenant, commissioned by virtue of the preceding appointment, having in my presence Felipe Tapia and Juan Jose Peralta, soldiers of the company of the royal presidio of San Francisco, made known to them the preceding decree, the which having heard, they said that they accepted the said appointment, and promised their assistance in these proceedings with the punctuality which I exact of them, and to which they are obliged; and they signed with me, which I authenticate.

JOSE MORAGA.
FELIPE TAPIA.
JUAN JOSE PERALTA.

In the said pueblo, on the 14th day of May, in the year one thousand even hundred and eighty-three, I, the said lieutenant commissioner, in continuation of these proceedings, in duty ought to, and do, command to appear

before me and the witnesses of my assistance, the nine pobladores (settlers) of the said pueblo; and having all present in the name of his majesty, (whom God preserve,) I gave possession of the respective *solar* thirty varas square for a dwelling-house, to the alcalde and settler Architeta, who was made acquainted therewith, and he said he was aware of the privileges, favors, and exceptions with which the sovereign made him this concession under the penalties imposed on the disobedient; and being interrogated if he admitted the possession given, replied that he did, and offered to fulfil the obligations contracted in his establishment.

(Here follows the description of the lot.)

Not knowing how to sign, Tiburcio Bazquez did it at his request.

169 I did the same with the assisting witnesses.

JOSE MORAGA.
FELIPE TAPIA.
JUAN JOSE PERALTA.
TIBURCIO BAZQUEZ.

Stipulation.

Before U. S. land commission.

MAYOR AND COMMON COUNCIL of the city of San Jose *vs.* THE UNITED STATES. } No. 286.

CHARLES WHITE *et al.* *vs.* THE UNITED STAETS. } No. 287.

It is hereby agreed that the above cases may be tried together, and that all the proofs in either case may be used in both so far as applicable, subject to all legal exceptions.

CROCKETT & WELLS,
Attorneys for claimants.
J. H. McKUNE, *Law agent.*

Filed in office Sept. 26, 1855.

GEO. FISHER, *Sec'y.*

171 *Dep. of Aut'o Ma. Pico.*

SAN FRANCISCO, *December 30th*, 1852.

On this day, before Commissioner Harry J. Thornton, came Antonio Maria Pico, a witness in behalf of the claimants, Charles White and Isaac Branham, trustees, &c., etc., petition No. 287, and was duly sworn, his evidence being interpreted by the secretary.

The U. S. associate law agent was present.

Questions by claimant.

1st question. What is your name, age, and place of residence, and how long have you resided there?

Answer. My name is Antonio Maria Pico; my age is 44 years, and I reside at the pueblo of San Jose, where I have resided twenty-two years.

2d question. During your residence at San Jose what offices, if any, have you held under the Mexican authority?

Answer. I have held the office of alcalde from the year 1835 to 1849, in different years within that period.

3d question. Were there, or not, whilst you were holding that office, any attempts to run off or mark out the boundaries and lines of the pueblo of San Jose? and if so, what?

Answer. Whilst I was alcalde there were complaints upon the subject of the uncertainty or want of limits to the pueblo, by the owners of cattle; that whilst I was in office no measures were ever taken to run off or fix the
173 bounds.

4th question. Do you know, or not, of any measures being taken at any time to mark off the pueblo lands of San Jose? And if yea, state by whom, when, and what these measures were.

Answer. During the administration of Governor Alvarado, an order was received from him to lay off the pueblo, when it was done accordingly by the ayuntamiento having appointed commissioners, who were Don Salvio Pacheco, William Gulnac, G. Castro, Isidro Sibrian, and F. Garcia, for that purpose.

5th question. Do you know, or not, whether the commissioners marked off and defined the boundaries of the pueblo lands? And if so, what were the boundaries so established?

Answer. I do know that the commissioners marked off the said boundaries. They commenced at a land mark in the mountain, as I was informed; the southern boundary of the said pueblo is the Arroyo de las Llagas; to the east of this arroyo, and on the mountain, was told by the surveyors that they erected a stone monument, but never saw it. From that monument the line runs northerly to the lower range of hills to the rancho Las Caliveras; this line runs by a place called Las Animas, also the place called Canada de Oso, and by San Felipe. From the said rancho of Calaveras the boundary line runs towards the rancho of Alviso, up to the river Guadalupe; from thence the line runs in a southerly direction to the headwaters thereof, the river being the boundary line; thence towards the mountains to the top
174 thereof, to a live-oak tree, which is distinguished and notorious from its heighth, and is to be seen from the town of San Jose. From this live-oak the boundary line runs along the mountain to the head of the Arroyo de las Llagas.

6th question. State whether or not the boundaries here given have been notoriously recognized as such since the establishment thereof by the commissioners.

Answer. The boundaries which I have described have always been recognized by the country since they were laid down, and as alcalde I always noticed and regarded them.

7th question. State whether Dolores Pacheco and William Gulnac, who were in the survey, are living or dead.

Answer. They are both dead. Dolores Pacheco was alcalde at the time of the appointment of the commissioners to make the survey.

Cross-examination by law agent.

1st question. What was done with the report made by the commissioners to survey the pueblo?

Answer. They were put in the archives, I suppose, and must be there.

2d question. Did the government of California make any decree or
174 other resolution upon the subject of the limits of San Jose after the date of the report?

Answer. I do not know anything about such decree or resolution by the government of California, if any was ever made.

ANTO. MA. PICO.

United States law agent present.

Sworn to and subscribed before me this 30th December, 1852.

HARRY J. THORNTON, *Commissioner, etc.*

Filed in office December 30th, 1852.

(Signed) GEO FISHER, *Sec'y.*

Recorded in E and B, vol. 2, page 395.

(Signed) GEO. FISHER, *Sec'y.*

Dep. of M. Castro.

SAN FRANCISCO, *January 12th*, 1853.

On this day, before Commissioner Harry J. Thornton, came Mariano Castro, a witness in behalf of the claimants, Charles White and Isaac Branham, petition No. 287, and was duly sworn, his evidence being interpreted by the secretary.

The United States associate law agent was present.

Questions by claimant.

175 1st question. What is your name, age, and place of residence, and how long have you lived there?

Answer. My name is Mariano Castro, my age is sixty-nine years, my residence is Santa Clara, and I was born in California, at the presidio of San Francisco.

2d question. When did you first become acquainted with the pueblo of San Jose?

Answer. Since my boyhood I have known it.

Question. Had the pueblo of San Jose any lands or not? and if it had, where were those lands situated?

Answer. The pueblo had lands, and have had them ever since the settlement or foundation of the town.

Question. Do you or not know whether the boundaries of the pueblo were ever run off or marked?

Answer. I do not know.

Question. Were there any marks or monuments showing the bounds of the pueblo lands of San Jose when you first knew them?

Answer. There were. The caranmiga or cliff is one of the monuments; the road to Santa Clara is another; and Las Llagas is another. The lo-
176 racco that I speak of is near the agua caliente. It may be a thousand or five hundred varas distant from the same.

Question. How long have you known this barranco as one of the limits of the pueblo?

Answer. Have known it as such from my boyhood.

Question. How long have you known Las Llagas as one of the boundaries of said pueblo?

Answer. I have known it as such from my boyhood.

Question. Does the Santa Cruz road cross the hills or mountains?

Answer. It does cross the hills at the Portezuela, which is one of the bounds.

Cross-examined by law agent.

Question. What do you mean when you say the pueblo had the lands in those limits?

Answer. I mean that the government of Spain gave the lands to the pueblo, and they laid it off and put them and put their landmarks.

2d question. Did the pueblo rent or sell or give those lands to any individual?

Answer. The pueblo has not sold any lands, because they could not sell it. They have not rented it. They have granted it by order of the
177 government to the inhabitants for settlement and cultivation.

his
MARIANO + CASTRO.
mark.

Sworn to and subscribed before me the 11th of January, 1853.

HARRY J. THORNTON,
Commissioner, etc., etc.

Filed in office Jan. 12th, 1853.

GEO. FISHER, *Secretary.*

Recorded in E. B, vol. 2, p. 432.

GEO. FISHER, *Secretary.*

B.—Judgment of the dist. court.

State of California: In the district court of the 3d judicial district.

Be it remembered, that heretofore, to wit, on the 20th day of December, in the year of our Lord 1850, Josiah Belden, Joseph Aram, and James F. Read, trustees for Peter Quivy, F. Lightstone, and others, by their attorneys, Tingley, Ramsey, and Ryland, filed their petition in the office of the clerk of said court, which said petition is in the following words, to wit:

STATE OF CALIFORNIA,
County of Santa Clara:

In the district court of Santa Clara county, December term, 1850, Joseph Aram, Josiah Belden, and James M. Reed, trustees for Pietro Quivey, F. F. Lightstone, and others, the mayor and common council of the city
178 of San Jose: to the honorable the judge of the district court for the county of Santa Clara:

Your petitioners, Joseph Aram, Josiah Belden, and James F. Reed, respectfully represent to your honor that they are residents of said county of Santa Clara; that on the 9th day of April, 1850, the ayuntamiento of the puebla de San Jose, composed of Jacob D. Hoppe, Isaac Branham, Peter Davidson, Charles White, and Richard May, executed their certain sealed obligations as such ayuntamiento (to) your petitioners, which is now to the court exhibited and shown, in and by which said obligation said defendants promised, in six months from the date of said obligation, to pay to your petition-

ers the sum of thirty-four thousand dollars; and to secure the payment thereof and interest thereon at six per cent. per month, payable monthly, said defendants mortgaged and pledged all the public and real property belonging to said pueblo, or that might hereafter belong thereto as a pueblo or city, together with the revenues of said pueblo or city for the year 1850, as also all State bonds of the State of California now owned by said pueblo or city; and further agreed that if default be made in any of the conditions or stipulations of said obligation, said defendants would forfeit all interest paid on said debt, being the interest on said debt from 9th April, 1850, to 1st of May, 1850, as also all the State bonds, being about $111,900.

And your petitioners aver that all the stipulations and conditions
179 of said obligation have been forfeited and violated, and that the whole of said sum of $34,000, together with all interest due thereon, remains wholly due and unpaid.

The prayer of your petitioners is that the mayor and common council of the city of San Jose be made defendants known as the successors legally of the late ayuntiamiento of the pueblo de San Jose, and that process in this case be served on the mayor and president of the common council of said city, and that judgment be rendered against said defendant for the sum of fifty thousand dollars debt and damages in this suit, and that in default of payment thereof that it be decreed by this honorable court that said real public property of said city be sold to pay said debt and damages, and for all such other and further relief in the premises as may be sanctioned by justice and equity. And your petitioners, in duty bound, &c., &c.

TINGLEY, RAMSEY & RYLAND,
Attorneys for Petitioners.

Upon which said petition the following writ of summons was issued, to wit:

District court of the third judicial district.

STATE OF CALIFORNIA,
County of Santa Clara:

The people of the State of California to the mayor and common council of the city of San Jose, greeting:

You are hereby summoned to appear and answer unto the complaint of Joseph Aram, Josian Belden, and James F. Reed, filed in this court within two days after the service of this writ.

Witness Honorable John H. Watson, judge of the third judicial
180 district, with my private seal, (there being no seal yet provided at office,) this 23d day of December, A. D. 1850.

[L. S.] H. C. MELONE, *Clerk.*

Which said writ of summons, with a certified copy of the plaintiff's petition, was delivered to the sheriff of Santa Clara County, and which said writ was returned into the office of the clerk of said district court, with the following endorsement thereon, to wit:

Came to hand December 23d, 1850. Served the within by leaving a copy of summons and complaint with Josiah Belden, mayor of the city of San Jose, and F. B. Clement, president of the common council, in person, December 23d, 1850.

JOHN YOUTZ, *Sheriff*,
By W. B. THOMPSON, *Deputy.*

Fee three dollars.

And afterwards, to wit, at the district court continued and held in the city of San Jose, county of Santa Clara, and State aforesaid, on the 26th day of December, 1850, the said defendants, by their attorney, Thomas L. Vernule, came into court and filed their answer to the complaint in said plaintiffs' complaint, in the following words and figures:

STATE OF CALIFORNIA:

In the district court for Santa Clara County, December term, 1850.

JOSIAH BELDEN, JOSEPH ARAM, AND THOMAS F. REED, trustees, &c.,
vs.
MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE.

And said defendants come by Thomas L. Vernull, attorney for said
181 defendant, the mayor and common council of the city of San Jose, and for answer to said complaint says, that from what he advised there is justly due and owing to complainants from defendant the sum of $37,230, in form, to wit, $25,500 principal and $11,730 of interest, for which sum said defendant now here confesses judgment and consents that a decree for foreclosure of said mortgage be rendered herein, agreeably to the prayer of said petitioners.

THOMAS L. VERMILL,
City Attorney of the City of San Jose, and Attorney for the defendants, the Mayor and Common Council.

And afterwards, to wit, at the district court continued and held for the county of Santa Clara in the city of San Jose, State aforesaid, on the 26th day of December, 1850, comes said plaintiffs by Tingley and Ryland, their attorneys; and thereupon comes T. L. Vermill, attorney for the mayor and common council of the city of San Jose, and filed the answer of defendants herein in the words and figures, to wit: And said defendants come by Thomas L. Vermill, attorney for said defendants the mayor and common council of the city of San Jose, and for answer to said complaint says that from what he is advised there is justly due and owing to complainants from defendants the sum of thirty-seven thousand two hundred and thirty dollars, in form, to wit, $25,000 principal and $11,730 of interest, for which sum said defendants now here confesses judgment and consents that a decree for foreclosure of said mortgage be rendered them agreeably to the prayer of said petitioners.

THOMAS L. VERMILL,
City Attorney of the City of San Jose, and Attorney for defendants, the Mayor and Common Council.

182 It is therefore considered, adjudged, and decreed by the court here that the said plaintiffs do recover of said defendants the sum of thirty-seven thousand two hundred and thirty dollars, the amount in and by said answer confessed to be due and owing by said defendants to said plaintiffs at this date, together with five per cent per month interest thereon till paid, and costs of suit; and in default of the payment of said sum of money by defendant to said plaintiff within ten days from the date hereof, with interest thereon as aforesaid and costs.

It is further ordered, adjudged, and decreed by the court that the sheriff of Santa Clara County do therefore proceed to sell all so much of the public property (real) of the pueblo de San Jose, or city of San Jose, owned and held by

said pueblo or city on the 9th day of April, 1850, or other real estate is sold on execution as will make said sum of thirty-seven thousand two hundred and thirty dollars, together with interest thereon and costs of suit, and return the overplus, if any, to defendants; and in the event of the sale of any or all the real estate aforesaid by said sheriff, it is further ordered, adjudged, and decreed by the court that defendants' equity of redemption of, in, and to the real estate so sold be, and the same is hereby, forever foreclosed

All of which aforesaid matters and things are now here by the court finally ordered and decreed, which said judgment was rendered by the honorable judge of the third judicial district, at the city of San Jose, on the 26th of December, A. D. 1850.

J. H. WATSON, *Judge.*

183 Which said mortgage is in the following words and figures, to wit:

TERRITORY OF CALIFORNIA:

Know all men by these presents, that we, Joseph Aram, Josiah Belden, and James F. Reed, trustees for Pitre Quivey, F. Lightstone, and others, of the pueblo de San Jose and Territory aforesaid, of the first part, and the ayuntamiento of the pueblo de San Jose, of said Territory, composed of J. D. Hoppe, Isaac Branham, Peter Davidson, Charles White, and R. H. May, of the second part, have contracted, bargained, and agreed, in the manner and terms following, to wit: The party of the first part agree, and by these presents doth bargain and sell unto the party of the second part one lot or parcel of land, situate, lying, and being in the pueblo de San Jose and Territory aforesaid, on Market Square, having twenty-five varas front, more or less, adjoining the premises of John Bernal on the northwest, and the lot over which the Washington* situated on the southeast, with the building thereon, known and now used as the legislative hall, with all the rights and appurtenances thereunto belonging or in anywise appertaining, for and in consideration of the sum of $34,000, to be paid in six months from and after the signing and sealing of these presents by the party of the second part or their successors, and for the payment of which, well and truly to be made, and the interest thereon as is hereinafter expressed and stated, the party of the second part pledge all the public real property now belonging or which may hereafter belong to the said pueblo de San Jose as a city, also an amount of
184 revenue raised by taxes in said city for the present year as may be equal in amount to thirty-four thousand dollars and the interest thereon as hereinafter specified, and do also pledge and pawn all the State scrips or temporary loan bonds made by the present legislature, that may be in the treasury belonging to the party of the second part as a corporation. And the party of the first part agree and obligate themselves, under the penalty of fifty thousand dollars, that upon the payment of said sum of thirty-four thousand dollars and the interest thereon as is hereinafter stipulated, to make to the party of the second part or their successors as good and valid title in every respect to said premises hereinbefore described as the party of the first part now has to the same. And it is further stipulated and agreed by the party of the second that upon the signing and sealing of this agreement that they will pay to the said party of the first part the interest now due on fifteen thousand dollars, that is the interest thereon at the rate of six per cent. from the first day of February until the first day of May, of the year eighteen hundred and fifty, and that the whole amount of the purchase-money shall bear an interest at the rate of six per cent. per month, payable monthly, until said purchase-money shall be paid according to the terms herein agreed upon; and upon the failure of the party of the second part to

*Unintelligible in the original.

pay the said amount of purchase-money, it is hereby agreed upon at the —— time —— agreed upon they forfeit to the party of the first part
185 the interest paid, as also all the scrips or temporary State bonds that may be pawned or pledged.

In witness whereof, the parties of the first and second parts have hereunto set their hands and seals this 9th day of April, 1850.

JACOB D. HOPPE. [SEAL.]
ISAAC BRANHAM. [SEAL.]
PETER DAVIDSON. [SEAL.]
CHARLES WHITE. [SEAL.]
R. H. MAY. [SEAL.]
JOSEPH ARAM. [SEAL.]
JOSIAH BELDEN. [SEAL.]
JAMES F. REED. [SEAL.]

In presence of— the words twenty-five, between "having" and "varas," were inserted before the signing of this instrument.

STATE OF CALIFORNIA,
County of Santa Clara:

Be it remembered, that on this the 29th day of April, A. D. 1850, before me personally came J. D. Hoppe, Isaac Branham, Peter Davidson, Charles White, R. H. May, Joseph Aram, Josiah Belden, and James F. Reed, to me known to be the same persons whose names are subscribed to the foregoing instrument, and each of them being of age and of sound discretion, acknowledged that they executed the same for the purposes therein mentioned.

[SEAL.] Given under my hand and seal the day and year above written.

C. T. RYLAND,
Notary Public in and for the county of Santa Clara.

And upon the back of said instrument is the following words and
186 figures endorsed, to wit:

Filed for record 7th of May, 1850, at 11 o'clock a. m. Recorded in Book A, folios 45, 46, and 47. Filed December 21st, 1850.

C. H. MELONE, *Clerk.*

And afterwards, to wit, on the 17th day of February, in the year of our Lord 1851, execution issued on said judgment directed to the sheriff of the county of Santa Clara, which said execution is in the following words and figures following, to wit:

District court of the third judicial district.

STATE OF CALIFORNIA,
County of Santa Clara:

The people of the State of California to the sheriff of Santa Clara County, greeting:

Whereas judgment was rendered in the district court of the county of Santa Clara, on the 26th day of December, A. D. 1850, against the mayor and common council of the city of San Jose, and in favor of Josiah Belden, Joseph Aram, and James F. Reed, trustees for P. Quivey, F. Lightstone, and others, for the sum of thirty-seven thousand two hundred and thirty dollars debt and costs of suit: These are therefore to command you that of the real estate, lands, tenements of the city of San Jose, to levy and cause to be made by distress and sale the sum of thirty-seven thousand two hundred

and thirty dollars debt, with interest thereon at the rate of five per cent. per month from rendition of judgment until paid, together with all charges and costs in this behalf expended, as also all costs accruing under
187 service of this writ, and make legal service and return of this writ in forty-five days from the date hereof.

Witness Honorable John H. Watson, judge of the third judicial district, with my private seal, there being no *no* seal yet provided at office, this 17th day of February, A. D. 1851.

C. H. MELONE, *Clerk.*

And upon said execution the following is endorsed thereon, to wit:

Came to hand this 17th day of February, 1851.

JOHN YOUTZ, *Sheriff.*

And with this further endorsement, to wit:

Levied on south half of lot No. 6, block 1, ranges south of the base line, together with all improvements thereon; also marked square St. James Square and Washington Square; also 450 lots in the north part of said city, and all lands surveyed and unsurveyed, all lying and situated in the county of Santa Clara, California.

JOHN YOUTZ, *Sheriff.*

February 18th, 1851.

And upon said executiou the following is also endorsed thereon, to wit:

Property sold to the amount of $2,108 28, subject to $148 74 costs. The property sold to the persons and for the amount, as per memorandum filed herewith.

JOHN YOUTZ, *Sheriff.*

And this further endorsement thereon, to wit:

The sale enjoined by an injunction ordered by the district court on the 28th day of March, 1851.

188 JOHN YOUTZ, *Sheriff.*

And also endorsed:

Received of John Youtz, sheriff, $1,959 54, being the amount made on this execution, after paying costs.

JOSEPH ARAM,
JAMES F. REED,
JOSIAH BELDEN,
Trustees for Peter Quivey, F. Lightstone, and others.

May 30th, 1851.

And afterwards, to wit, on the 6th day of May, in the year of our Lord 1851, execution was again issued upon the said judgment, and which said execution is in the following words and figures, to wit:

District court, third judicial district.

STATE OF CALIFORNIA,
County of Santa Clara:

The people of the State of California to the sheriff of Santa Clara County, greeting:

Whereas judgment was rendered in the district court of Santa Clara

County, on the 26th day of December, A. D. 1850, against the mayor and common council of the city of San Jose, and in favor of Josiah Belden, Joseph Aram, and James F. Reed, trustees for Pitre Quivey, F. Lightstone, and others, for the sum of thirtyseven thousand two hundred and thirty dollars debt and costs of suit: These are therefore to command you that of the goods and chattels, lands and tenements, of the said city of San Jose to levy and cause to be made by distress and sale the said sum of thirty-seven thousand two hundred and thirty dollars debt, with interest thereon at the rate of five per cent. per month from rendition of judgment until paid, and all costs and charges in this behalf expended, as also all costs accruing under this writ, and hereof made legal service and due return in sixty days from the date hereof.

Given under my hand and private seal, there being no official seal yet provided, at office, this 6th day of May, A. D. 1851.

H. C. MELONE, *Clerk.* [SEAL.]

And upon said execution the following words are endorsed thereon, to wit:

Received this sixth day of May, 1851, at 5¼ minutes p. m.

JOHN YOUTZ, *Sheriff*,
By W. B. THOMPSON, *Deputy.*

And on which said execution is the following further endorsement, to wit:

Served this writ by levying on all the right, title, and interest of the city of San Jose to the lands designated to the writing attached to this execution.

May 6th, A. D. 1851.

JOHN YOUTZ, *Sheriff*,
By W. B. THOMPSON, *Deputy.*

And which said writing is in the following words, to wit: All the right, title, and interest of the city of San Jose in and to all lots or particles of lots within the present city boundaries. Also all the right, title, and interest of the city of San Jose in and to the following described land, lying and being in the county of Santa Clara and State of California, to wit: Beginning at the monument on the mountain between the city of San Jose and the mission of San Jose; from thence to an ensina (live-oak) near the landing at Alviso; from thence following up the river Guadalupe until it intersects the old boundary line between the mission of Santa Clara and the pueblo de San Jose, which boundary line lays between the willow trees on the road from San Jose to Alviso and the house of James Stoakes; from said intersection of the boundary line between Santa Clara mission and the
190 pueblo de San Jose to a monument erected on the Blue mountains or Coast range; from thence following the course of said Coast range along its summit until it intersects a monument on or near the Arroya de las Llagas; from thence following said Arroyo de las Llagas across the plain until it intersects a monument on the opposite range of Mountains; from said monument northwardly following the summit of the mountain and including those places known as Las Bueyes, Las Animas, San Felipe Aguage, and Pala, to the place of beginning.

And upon said writ of execution is this further endorsement, to wit:

I hereby certify I sold the above property as described in the levy to J. Branham and Charles White for twenty-six thousand and sixty dollars, they being the highest and last bidders.

JOHN YOUTZ, *Sheriff.*

May 28th, 1851.

And this further endorsement on said execution, to wit:

Received of John Youtz, sheriff, twenty-five thousand two hundred and forty-five dollars and twenty cents, being the amount made on this execution after paying the costs.

JOSEPH ARAM,
JAMES F. REED,
JOSIAH BELDEN,
Trustees for Pitre Quivey, F. Lightstone, and others.

May 30th, 1851.

And this further endorsement on said execution, to wit:

Received satisfaction in full of the within execution May 31st, 1851.

JOSIAH BELDEN,
JAMES F. REED,
Trustees for Pitre Quivey, F. Lightstone, and others.

STATE OF CALIFORNIA,
County of Santa Clara, ss:

I, Henry C. Melone, clerk of the county of Santa Clara in said
191 State, and ex-officio clerk of the district court of the third judicial district for said county, do hereby certify that the above and foregoing pages contain a full, true, and complete transcript of the record and proceedings of the case herein named, wherein Josiah Belden, Joseph Aram, and James F. Reed, trustees, etc., are plaintiffs, and the mayor and common council of the city of San Jose are defendants, as the same are of record in my office.

[SEAL.] Given under my hand and private seal, there being no official seal yet provided, at office, this seventh day of July, A. D. 1852.

H. C. MELONE, *Clerk.*

Filed in office July 14th, 1852

GEO. FISHER, *Secretary.*

C.—Sheriff's conveyance.

This indenture, made and entered into this 28th day of May, A. D. 1851, by and between John Youtz, sheriff of Santa Clara County and State of California, of the first part, and Charles White and Isaac Branham, trustees for Charles White, James F. Reed, Isaac Branham, Josiah Belden, Henry Clarkson, H. C. Melone, Joseph Aram, James M. Jones, and Jacob D. Hoppe, of said county and State, of the second part, witnesseth, that whereas on the
26th day of December, A. D. 1850, a judgment was rendered in the
192 district court of the third judicial district within and for said county of Santa Clara, in favor of Josiah Belden, Joseph Aram, and James F. Reed, trustees for Pitre Quivey, F. Lightstone, and others, and against the mayor and common council of the city of San Jose, for the sum of thirty-seven thousand two hundred and thirty dollars debt and interest, with costs of suit; upon which judgment an execution was issued from the clerk's office of said court in favor of the said Josiah Belden, Joseph Aram, and James F. Reed, trustees for Pitre Quivey, F. Lightstone, and others, and against the said mayor and common council of the city of San Jose, dated the 6th day of May, A. D. 1851, and of which the following is a copy, to wit:

District court, third judicial district.

STATE OF CALIFORNIA,
County of Santa Clara:

The people of the State of California to the sheriff of Santa Clara County, greeting:

Whereas judgment was rendered in the district court of county of Santa Clara on the 26th day of December, A. D. 1850, against the mayor and common council of the city of San Jose, and in favor of Josiah Belden, Joseph Aram, and James F. Reed, trustees for Pitre Quivey, F. Lightstone, and others, for the sum of thirty-seven thousand two hundred and thirty dollars debt and costs of suit: These are therefore to command you that of the goods and chattels, lands and tenements, of the said city of San Jose to buy and cause to be made by distress and sale the said sum of thirty-seven thousand two hundred and thirty dollars debt, with interest thereon
193 at the rate of five per cent. per month from rendition of judgment until paid, and all costs and charges in this behalf expended, as also all costs accruing under this writ; and hereof made legal service and due return in sixty days from the date hereof.

Given under my hand and private seal, there being no seal yet provided at office, this 6th day of May, A. D. 1851.

[SEAL.] H. C. MELONE, *Clerk.*

And which said writ of execution came into my hands on the said 6th day of May, A. D. 1851, by virtue of which said execution, I, the said sheriff, did on the said 6th day of May, 1851, levy upon and seize all the right, title, and interest of the said city of San Jose in and to the following lots, situate, lying, and being in the county of Santa Clara, State of California, and known on the plan or map of the said city of San Jose as lots numbered 21, 22, 23 and 24 in block 53, and 7 to 12 and 19 to 24 of block 52, and 3, 13 to 24 in block 72, 1 to 12 and 24 in block 62, 11 to 24 of block eighty-two, and lots 1 to 12 of block sixty-three, and also all the right, title, and interest of the said city of San Jose, in and to all lots and particles of lots within the present boundaries of said city of San Jose.

Also all the right, title, and interest of the said city of San Jose in and to the following described land, lying and being in the county of Santa Clara, and State of California, to wit: Beginning at the monument on the mountain between the city of San Jose and mission of San Jose, from thence to an ensina (live-oak) near the landing at Alviso, from thence follow-
194 ing up the river Guadalupe until it intersects the old boundary line between the mission of Santa Clara and the Puebla de San Jose, which boundary line lays between the willow trees and the road from San Jose to Alviso and the house of James Stoakes; from said intersection of the boundary line between Santa Clara mission and the pueblo de San Jose to a monument erected on the Blue Mountain or Coast range, from thence following the course of said range along its summit until it intersects a monument on or near the Arroyo de las Llagas, from thence following the Arroyo de las Llagas across the plain until it intersects a monument on the opposite range of mountains, from said monument northwardly, following the summit of the mountain and including those places known as Las Bueyes, Las Animas, San Felipe, Aguage, and Palo, to the place of beginning; and having previously to the day of sale hereinafter mentioned given at least twenty days' notice of the time and place of sale of said property, a true described and where situated, by written notices posted upon three public places in the said county of Santa Clara, and which notices intelligibly referred to the execution and stated that, by virtue of said execution to

me directed, I would expose to public auction and sell to the highest bidder for cash in hand at the court-house door, on the 28th day of May, A. D. 1851, between the hours of 10 a. m. of same day, the said real estate above described and levied upon and seized by me as sheriff of said county, to satisfy said execution, and costs; and whereas I did, by virtue of said
195 execution and notice of sale, on the 28th day of May, A. D. one thousand eight hundred and fifty-one, between the hours of 10 a. m. and sunset of same day, agreeably to said notice or advertisement, at the court-house door, in said county, expose to public auction, for cash in hand, all the right, title, and interest of the said city of San Jose in and to the above-described property or real estate, and Charles White and Isaac Branham as trustees for Charles White, James F. Reed and Isaac Branham, Josiah Belden, Henry Clarkson, H. C. Melone, Joseph Aram, James M. Jones, and Jacob D. Hoppe, being the highest and last bidders for said property, at the price and sum of twenty-six thousand and sixty dollars, the same was stricken off and sold to the said C. White and J. Branham, trustees as aforesaid for C. White, J. F. Reed, J. Branham, Josiah Belden, Henry Clarkson; H. C. Melone, Joseph Aram, James M. Jones and Jacob D. Hoppe for said last-mentioned sum:

Now, therefore, know ye that, in consideration of the premises and of the said sum of twenty-six thousand and sixty dollars to me in hand paid by the said Charles White and Isaac Branham, trustees for Charles White, James F. Reed, Isaac Branham, Josiah Belden, Henry Clarkson, H. C. Melone, Joseph Aram, James M. Jones, and Jacob D. Hoppe, the receipt whereof I do hereby acknowledge, and by virtue of the authority in me vested by law, I, John Youtz, sheriff as aforesaid, do hereby grant, bargain, sell, and convey unto the said Charles White and Isaac Branham, trustees for
196 Charles White, Isaac Branham, James F. Reed, Josiah Belden, Henry Clarkson, H. C. Malone, Joseph Aram, James M. Jones, Jacob M. Jones, and Jacob D. Hoppe all the right, title, and interest of the said city of San Jose in and to the above mentioned and described property, that I might sell as sheriff as aforesaid by virtue of the aforesaid execution and notice of sale.

To have and to hold the same to them, the said Charles White and Isaac Branham, trustees for Charles White, Isaac Branham, James F. Reed, Josiah Belden, Henry Clarkson, H. C. Melone, Joseph Aram, James M. Jones, and Jacob D. Hoppe, and to their heirs and assigns forever, with all and singular, the rights and privileges thereunto belonging, and which belonged to the said city of San Jose.

In testimony whereof, I, John Youtz, sheriff of the county of Santa Clara aforesaid, have hereunto set my hand and seal this twenty-eighty day of May, A. D. 1851.

JOHN YOUTZ, [SEAL.]
Sheriff of Santa Clara County, California.

Witness:
JOHN S. TIGLEY.
H. P. DOWREY.

STATE OF CALIFORNIA,
County of Santa Clara, ss:

On this 31st day of May, 1851, personally appeared before me, William L. Smith, a notary public within and for said county, John Youtz, per-
197 sonally known to me to be the person described in and who executed the above and foregoing instrument, who acknowledged to me that he executed the same freely and voluntarily, and for the uses and purposes therein mentioned

In testimony whereof, I have hereunto set my hand and official seal, [SEAL.] at office, in the city of San Francisco, on this 31st day of May, A. D. 1851.

WILLIAM L. SMITH.

Filed 8.50 o'clock a. m., 6th June, A. D. 1851.

J. T. RICHARDSON, *Recorder S. C. C.*

Recorded in Book of Deeds B, pages 421, 422, 423, and 424, at 8 50-60 a. m., 6th June, A. D. 1851, recorder's office, Santa Clara County, California.

J. T. RICHARDSON, *Recorder.*

Filed in office July 14th, 1852.

(Signed) GEO. FISHER, *Sec'y.*

Opinion by Com'r Farwell.

THE MAYOR AND COMMON COUNCIL of the city of San Jose, *vs.* THE UNITED STATES. } For pueblo lands.

San Jose de Guadalupe was regularly organized and established into a pueblo under the Spanish government, having been founded by Felipe de Noe, the governor of California, in 1777, and approved by the king by royal decree dated March 6th, 1779. The town thus established continued until
198 it was incorporated by the legislature of California in 1850, with the present corporate name. In 1783 the governor appointed Jose Moraga commissioner for the purpose of making an assignment of *solares* and *suertes* to each settler, which he done, and made an imperfect designation of lands for *propries* and *ejidas.*

This designation does not seem to us to be sufficiently definite to fix the limits of any portion of land which can be confirmed by the boundaries therein expressed.

It was probably designed to meet the exigencies of that then infant settlement, and while its bounds are not sufficiently explicit to set apart a specific portion of land to the pueblo for pueblo use, and to entitle them to a confirmation thereto, as lands segregated for that purpose, it is also insufficient to defeat any right of the pueblo to the benefit of such extent of land as the Spanish laws recognized as theirs.

We think from the showing in this case that the petitioners are entitled to a confirmation for four square leagues of land, and the reasons for the conclusions of the board in this case will be found at large in the case of the city of San Francisco *vs.* the United States, No. 280 on the calender of causes of this commission, and a decree will be entered accordingly.

Confirmed.

Filed in office February 6th, 1850.

199 GEO. FISHER, *Sec'y.*

Decree of confirmation.

THE MAYOR AND COMMON COUNCIL of the city of San Jose *vs.* THE UNITED STATES. }

In this case it is adjudged by the commission that the claim of the petitioners for so much of the land described in their petition as is hereinafter particularly described is valid; and it is therefore hereby decreed that the same

be confirmed. And as to the claim of the said petitioners to the portion of land described in their petition, and not embraced in the limits hereinafter specified, it is adjudged that their claim for the same is not valid, and their application for a confirmation is rejected.

The land of which confirmation is hereby made is situated in the county of Santa Clara, containing four square leagues of land, and is bounded on the north and south by two parallel lines, each two leagues in length and running due east and west, and on the east and west sides by two parallel lines, each two leagues in length and running due north and south; said boundary lines being so drawn that their respective centres shall be in a direction due north, south, east, and west from the centre of the plaza of the city of San Jose, and each at the distance of one league from the same, excepting such portion of said area is situated on the side of the river Guadalupe, opposite to said city, and making said river the boundary line on that side of said area instead of the line above described.

ALPHEUS.
R. AUG. THOMPSON.
S. B. FARWELL.

200 Filed in office February 5th, 1856.

GEO. FISHER, *Sec'y.*

And it appearing to the satisfaction of this board that the land hereby adjudicated is situated in the northern district of California, it is hereby ordered that two transcripts of the proceedings and of the decisions in this case, and of the papers and evidence upon which the same are founded, be made out, and duly certified by the secretary, one of which transcripts shall be filed with the clerk of the United States district court for the northern district of California, and the other be transmitted to the Attorney General of the United States.

Secretary's certificates.

OFFICE OF THE BOARD OF COMMISSIONERS TO ASCERTAIN AND SETTLE THE PRIVATE LAND CLAIMS IN THE STATE OF CALIFORNIA.

I, George Fisher, secretary to the board of commissioners to ascertain and settle the private land claims in the State of California, do hereby certify the foregoing one hundred and sixty-eight pages, numbered from 1 to 168, both inclusive, to contain a true, correct, and full transcript of the record of proceedings, and of the decision of the said board, of the documentary evidence, and of the testimony of the witnesses upon which the same is founded, on file in this office, in case No. 286 on the docket of the said board, wherein the mayor and common council of the city of San Jose are the
201 claimants against the United States, for the place known by the name of "Pueblo lands."

In testimony whereof, I hereunto set my hand and affix my private seal, (not having a seal of office,) at San Francisco, California, this 23d
[SEAL.] day of February, A. D. 1856, and of the independence of the United States of America the eightieth.

[SEAL.] GEO. FISHER, *Sec'y.*

Endorsed: Filed Feb'y 26th, 1856.

J. A. MONROE, *Clerk.*

NOTE.—Several blanks have been left in the foregoing two hundred written pages, as the transcript of the record from the board of land commissioners is in those places unintelligible, and efforts to make out the words have been without avail.

T. M. JEWETT, *Transcript Clerk.*

203 *Notice of appeal, (claimants'.)*

In the district court of the United States, northern district, State of California.

MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE
vs.
THE UNITED STATES. } Notice of appeal.

You will please take notice that it is the intention of the above-named claimants to prosecute an appeal in the above-entitled cause to this court from the decision of the board of United States land commissioners rejecting their claim.

JOHN WILSON,
Att'y for appl'ts.

To Sam'l W. Inge, esq., U. S. district attorney, and John A. Monroe, esq., clerk of said court.

Endorsed: Filed April 4, 1856.

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy.*

204 *Petition.*

In the district court of the United States, northern district of California, United States of America.

MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE
vs.
THE UNITED STATES. } Petition. No. 419 of transcript.

To the Honorable Ogden Hoffman, jr., judge of the district court of the United States for the northern district of California:

Your petitioners above named respectfully show that heretofore, to wit, on the 14th day of July, 1852, they filed before the board of United States land commissioners for the State of California a petition for the confirmation of their claim to a tract of land situate in the northern district of California and in the county of Santa Clara, for a description of which land and the title thereto reference is hereby made to said petition; that after hearing said petition, with the proofs and the argument of counsel in the cause,
205 the said board, on the 5th day of February, 1856, rejected said claim as invalid. That on the 26th day of February, 1856, a transcript of the record was filed in this court, by virtue whereof, and by force of the statute in that case made and provided, an appeal to this court was duly effected. That on the 4th day of April, 1856, your petitioners filed in this court a notice of their intention to prosecute said appeal. Your petitioners therefore pray that the decision of said board be reversed, and that this court confirm their title to said land, to which confirmation your petitioners allege they are justly and lawfully entitled.

JOHN WILSON,
Att'y for claimants.

Endorsed: Filed April 4, 1856.

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy.*

206 *Notice of appeal, (U. S.)*

OFFICE OF THE ATTORNEY GENERAL OF THE UNITED STATES,
Washington, 15 *April*, 1851.

286. "Pueblo Lands."

The mayor and common council of the city of San Jose, claimants.

You will please take notice that in the above case, decided by the commissioners to ascertain and settle private land claims in the State of California in favor of the claimant, and a transcript of the proceedings in which was received in this office on the 17th day of March, 1856, the appeal in the district court of the United States for the northern district of California will be prosecuted by the United States.

C. CUSHING, *Attorney General.*

JOHN A. MONROE, Esq., *Clerk U. S. D. C.*

Endorsed: Filed June 2, 1856.

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy.*

207 *Letter from Attorney General, and stipulation.*

CALIFORNIA LAND CLAIMS,
Attorney General's Office, 26 *Feb'y*, 1857.

SIR: In the case of the claim of the mayor and common council of San Jose, confirmed to the claimants by the commissioners, case No. two hundred and eighty-six, (286,) appeal will not be prosecuted by the United States. I am, respectfully,

C. CUSHING.

WM. BLANDING, Esq., *U. S. Attorney, San Francisco.*

In the district court of the U. S. for the northern dis't of Cal'a.

THE UNITED STATES
vs.
THE MAYOR AND COMMON COUNCIL, city SAN JOSE. } D. C. 419; L. C. 286.

In pursuance of a notice from the U. S. Attorney General, hereunto annexed, it is hereby stipulated and agreed that the appeal taken by the
208 U. S. in this case, from the decision of the U. S. land commission, be dismissed; that the notice of intention to prosecute said appeal filed in this court by the U. S., be withdrawn, and that claimants have leave to proceed under the decree of the said land commission heretofore rendered in their favor as under final decree.

WM. BLANDING, *Dist Att'y.*
JOHN WILSON, *Att'y for city of San Jose.*

San Francisco, April 1, 1857.

Endorsed: Filed April 1, 1857.

JOHN A. MONROE, *Clerk*,
By W. H. CHEVERS, *Deputy.*

Order dismissing appeal.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room, in the city of San

Francisco on Wednesday, the first day of April in the year of our Lord one thousand eight hundred and fifty-seven.

Present: The Honorable Ogden Hoffman, district judge.

209 THE UNITED STATES
vs.
THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE. } D. C. 419, L. C. 286.

The Attorney General of the United States having given notice that appeal will not be prosecuted in this case, and a stipulation to that effect having been entered into by the U. S. attorney, on motion of the district attorney it is ordered, adjudged, and decreed that the appeal taken in behalf of the United States from the decision of the U. S. land commission be dismissed, and that claimants have leave to proceed under the decree of the said land commission heretofore rendered in their favor, as under final decree.

OGDEN HOFFMAN, *U. S. Dist. Judge.*

Endorsed: Filed April 1st, 1857.

JOHN A. MONROE, *Clerk,*
By W. H. CHEVERS, *Deputy.*

210 *Decree of confirmation.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room, in the city of San Francisco on the sixth day of August, in the year of our Lord one thousand eight hundred and fifty-seven.

Present: The Honorable Ogden Hoffman, jun'r, district judge.

THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE
vs
THE UNITED STATES. } Decree.

Appeal from the final decision of the commissioners to ascertain and settle private land claims in the State of California. The claimants claim the land included within the boundaries of the former pueblo of San Jose de Guadalupe according to its ancient boundaries, and the cause having been heard upon appeal from the decision of the commissioners aforesaid upon the transcript of the proceedings before the said commissioners, their deci-
211 sion, and the papers and evidence on which said decision was founded, and the same having been argued by the district attorney on behalf of the United States, and by F. M. Haight and Joseph B. Crockett on behalf of the claimants representing the said pueblo, and due deliberation being thereupon had, the said court, in pursuance of the laws of Congress in that case made and provided, doth order, adjudge, and determine that the claim of the claimants to the land included within the ancient limits of the said pueblo of San Jose be confirmed to said claimants or their legal representatives according to the ancient boundaries of said pueblo, as ascertained by the orders and decrees of the former governments of California, the map and surveys in evidence, and the testimony of witnesses in the case as set forth in the said transcript of the proceedings of the said commissioners sent to this court. It is further ordered, adjudged, and decreed by the said district court that the boundaries of the said claim, being the same with those of the former pueblo of San Jose, shall be ascertained and surveyed as follows: Beginning at a point
212 in the woods at a live-oak tree in the dividing line between said pueblo and what were formerly known as the lands of the mission of San

Jose, and if said tree is gone, where the same was in March, 1838, running thence a southeast course, which passes through the mountains which are called Las Buelles, Pala, San Felipe, Las Animas, and Aguas de las Llagos, to a monument of stone erected in March, 1838, and having reference to all the landmarks on this line and to the monument of stone in the middle of the Pala; this line is in length eleven and one-half leagues, and its southern termination the southeast corner of the ancient limits of the said pueblo and of the land hereby confirmed to the claimants. Then commencing again at the point first mentioned, being the said live-oak tree or its former situation, and running a line from the northeast by east to southwest by west to the embarcadero of the Guadalupe to the last live-oak which is seen on the bank of the river Guadalupe, or where the same was in March, 1838, being two leagues and eight hundred varas for the length of this line, and the same passing near the house formerly occupied by Jose Higuera,
213 and distant from it four hundred and ten varas, the house being on the northerly side of this line. Thence up the river Guadalupe to its source, and thence running with a line corresponding with the course of said river as near as may be, and which is nearly from southeast to northwest, and having reference to monuments of stone formerly placed on this line, the last of which and the termination of this line was placed on the apex of a little hill which is at the foot of the mountain called "Parage de los Capitancillos," including part of the oak grove now or formerly at this place and including all the willow grove now or formerly at the source of the said river. Thence from said point at the foot of said mountain de los Capitancillos to the creek called Las Llagos at or near its source, and at such point as will make the distance from where said line strikes said creek to the southeastern point before ascertained the same length as the distance from the starting point in the survey to the embarcadero, that is, two leagues eight hundred varas, thence from said point last ascertained to the southeastern cor-
214 ner of the said tract before ascertained. In making the survey and ascertaining the preceding lines reference will be had to the survey and map of the boundaries of said pueblo made by the commissioners Castro, Gulnac, and Silvio Pacheco in March, 1838, and to the survey of Joseph Arguello under date of the twenty-fourth day of July, 1801, signed also by the friar Martin de Landeta and Jose Miguel Osuna, and to the documents and depositions in the cause as to the ancient boundaries of said pueblo of San Jose.

OGDEN HOFFMAN, *Dist. Judge.*

Endorsed: Filed Aug. 6, 1857.

JOHN A. MONROE, *Clerk,*
By W. H. CHEVERS, *Deputy.*

215 *Motion of U. S. for rehearing.*

District court of the United States for the northern district of California.

THE UNITED STATES *vs.* THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE.	No. 419, D. C. " 286, L. C.

The United States, by P. Della Torre, district attorney of the United States for the northern district of California, move the court to grant a rehearing of this cause, with leave to introduce further evidence, which motion they make upon the following grounds:

1st. That at the time of the submission of this cause, and at the time the

decree was made therein at the present term of this court, there were no parties before the court representing, or entitled to represent, the claim confirmed, and that the decree was and is void for this: that the corporation created by the statute of the State of California by the name of the "Mayor and Common Council of the City of San Jose," which was the same corporation in whose name the claim was presented and prosecuted had, before the time when the cause was heard and said decree was made, ceased to exist,
216 the act creating said corporation having been repealed by the act of the legislature of said State entitled "An act to reincorporate the city of San Jose," approved March 27th, 1857, and all the rights, titles, and possessions of the said "Mayor and Common Council of the city of San Jose," having been by said last-mentioned act transferred to and vested in a new and different corporation, created thereby by the name of "The Board of Trustees of the City of San Jose," which new corporation was in existence and competent to act when this cause was heard in this court and when the decree herein was entered, but was not made a party to the cause.

2nd. That there is error of law in the decree of this court confirming the claim, the said decree not justified as a conclusion of law upon the facts provided by the evidence which appears in the record.

3rd. That there exists other and additional evidence material to the United States, as shown by the affidavits and papers herewith filed and herein referred to, discovered since the hearing of the cause and since the making of the decree, and which the attorney of the United States,
217 in the exercise of due diligence, have produced prior thereto.

4th. That the testimony of Antonio Maria Pico, one of the most material witnesses on behalf of the claimants, was misunderstood in this, that the boundaries testified to by him were the boundaries or limits of the jurisdiction of the authorities of the former pueblo of San Jose, and not of land claimed by or belonging to said pueblo.

5th. That the cause was submitted at the former hearing without full argument in behalf of the United States, of the questions involved.

In support of this motion the United States rely upon the said act of the legislature of California, the affidavits and papers hereto attached, the espedientes of the several grants of land referred to in the accompanying affidavit of Antonio Sunol, or to such parts thereof as may be material as showing the knowledge of or assent to said grants, on the part of said pueblo or its authorities; a certain espediente of proceedings in regard to the laying out of lands for the said pueblo of San Jose and of lots for the first settlers thereof, in the year 1781, under the orders of Gov'r Bonica, or so much of said espediente as may be material to show the boundaries
218 then established for said pueblo; the diseno or map showing the boundaries of said land and referred to and forming part of said last-mentioned espediente; all which original espedientes and diseno or map are on file in the office of the surveyor general of the United States for the State of California, and upon such other evidence as they may produce before the hearing of this motion.

San Francisco, November 23, 1857.

P. DELLA TORRE, *U. S. Att'y.*

District court of the United States for the northern district of California.

THE UNITED STATES *vs.* THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE.	No. 281, L. C. No. 419, D. C.

James Alexander Forbes, being duly sworn, deposes and says that he is

52 years of age and resides in the county of Santa Clara, California; that he came to California to reside in the year 1830, and since that year
219 has resided all the time within the former jurisdiction or district of San Jose, and in the county of Santa Clara since said county was formed, with the exception of the year 1845, during which he resided in Yerba Buena; that he has read the decree of confirmation made in this case, by the United States district court, so far as the same describes the boundaries of the land confirmed to the claimants; that the boundaries therein designated as the ancient boundaries of the pueblo of San Jose are those which were formerly known and considered to be the limits of the jurisdiction of the authorities of said pueblo, and to the best of his knowledge and belief, were never known, or considered, or claimed in former times to be the boundaries of land owned by the said pueblo; that it was always understood since he has been in California, that the river Gaudalupe was the dividing line between said pueblo and the mission of Santa Clara, but that he never knew or heard of any other line having been designated as a boundary of land owned or claimed by the pueblo, except as hereinafter stated; that, so far as he knows or has ever heard, there never was
220 any grant of land made by the government to said pueblo, nor any designation or making out of any land by the former government of California as the propios or egidos of said pueblo; that it was generally supposed and considered by the people that under the law the said pueblo was entitled to the land in the immediate vicinity of the settlement or town, but not to extend more than one league north, south, east, or west.

Deponent says further that about the year 1838 certain persons were appointed by the ayuntamiento of San Jose, as commissioners to mark out the boundaries of the land which the ayuntamiento claimed or wished the government to grant to the pueblo, and that said commissioners made a map thereof, which, as deponent is informed and believes, was transmitted to the governor, together with the expediente of the proceedings on the subject, the said map and espediente being the same given in evidence in this case; that the said map had designated theron as boundaries very nearly the lines which had been considered as the limits of the jurisdiction of the
221 authorities of the pueblo, and included sundry tracts of land of considerable extent, which had previously been granted by the government to individuals, without opposition on the part of the pueblo or its authorities, and which were in 1838, and some of them for a long time previous thereto had been, in the occupation of the grantees as owners; that deponent is informed and believes that no grant of the land described in said espediente and map was ever made by the governor to said pueblo, and that the claim or petition in said espediente was never in any manner assented to or recognized by the government, but that, on the contrary, the government continued to make, and did afterwards make, to various individuals grants of land, with the boundaries specified in said espediente and map.

And deponent says further that he speaks the Spanish language fluently and during the whole time of his residence in the former jurisdiction of San Jose was in the habit of associating generally with the people of the country, and that in relation to any matter of general interest, he has had as good oppurtunities of acquiring information as any of the inhabitants of
222 said jurisdiction who had not resided there longer than himself.

JAS. ALEX. FORBES.

Sworn and subscribed before me this 15th Oct., A. D. 1857.

JNO. A. MONROE,
U. S. Commissioner.

District court of the United States for the northern district of California.

THE UNITED STATES
vs.
THE MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE.

No. 286, L. C.
No. 419, D. C.

Antonio Sunol, being duly sworn, deposes and says that he is sixty years of age, and resides in the city of San Jose, in the county of Santa Clara, in the State of California; that he came to California in the year 1818, and ever since that time has resided in the pueblo of San Jose; that during the years 1841, 1842, and 1843, he held the office of sub-prefect; that he has had read and translated to him, correctly he believes, the decree of confirmation made by the U. S. district court in this case, so far as the same des-
223 ignates the boundaries of the land confirmed to the claimants, and has examined a copy of the plan or diseno made in 1838, and to which said decree refers; that the boundaries designated in said decree as the ancient limits of the said pueblo are those which were recognized and considered, prior to the year 1838 and after that time, not as the boundaries of land owned or claimed by the pueblo, but as the boundaries of the territory within which the local authorities of the pueblo were to exercise jurisdiction; that these boundaries had formerly been much more extensive, but from time to time had been reduced as jurisdiction was conferred upon other local authorities; that, so far as this deponent knows or has ever been informed, there was never any formal grant of land made to the pueblo of San Jose, nor any formal designation or marking out of the limits of any land to be set apart as the land of the pueblo, either as propios or ejidos, except that the river Gaudalupe was designated and considered as the boundary between the land of the pueblo and that of the mission of
224 Santa Clara; that it is true that in former times, and before any grants of land were made to the vicinity by the government, the cattle of the inhabitants of the pueblo were accustomed to range over the whole space from the vicinity of the mission of San Jose to Las Llagas, and from the river Gaudalupe and the Sierra Azul in the west to the mountains in the east, and there were even lines of division between the pueblo of San Jose and the mission of San Jose on the north and San Juan on the south, but these lines were adopted for public convenience and for the purpose of keeping the cattle of the people of the pueblo separate from those of the missions; that the cattle of the people of the pueblo ranged over this whole space for the reason that it was wholly unoccupied, but it was never understood or considered by the people of the country that this extent of territory was the property of the pueblo or land which it held under any claim or pretence of title or right; that about the year 1828 the government commenced making grants of land within those lines and continued to make such grants down to the year 1838, and for many years subsequent thereto, and made
225 such grants not only without objection on the part of the pueblo and its authorities, but in many instances after a report from the authorities of the pueblo that the land solicited was not the land of any corporation or individual, and might be granted; that during all this time it never was contended or supposed, so far as deponent is aware, that the lands so granted were the lands of the pueblo, or that it had any claim of title thereto; that within the limits of the tract confirmed by said decree to the mayor and common council of the city of San Jose, there are included, amongst others, the following tracts of land which have been granted by the government to individuals, to wit: Las Animas, now belonging to Carlos Weber, San Felipe granted to the Bernals, Socayre granted to Antonio Chabolla, Canada de Pala granted to the Bernals, Pala granted to Joaquin Higuera, Las Milpitas

granted to Nicholas Higuera, part of Las Milpitas granted to Jose M'a Alvisu, Las Calaveras granted to Jose Higuera, Calera granted to Jose Higuera, Rincon de los Esteros granted to Ygnacio Alvisu, San Juan Bautista granted to Augustin Narvaez, Los Capitancillos granted to
226 Justo Larios, San Vicente granted to Jose Reyes Berreyesa, Santa Teresa granted to the Bernals, Laguna Seca granted to Juan Alvirez, Cajon de las Uvas granted to Lorenzo Pineda, Ojo de Coche granted to Juan M'a Hernandez, and that some of the said tracts of land were granted by the government prior to the year 1838, and others subsequent thereto, equally without objection on the part of the inhabitants and authorities of the pueblo. And deponent says further that though, so far as he knows or has ever heard, there was never any formal designation or marking out of lands of the pueblo, it was generally understood and considered by the people that under the law the pueblo owned some four or five leagues of land in its immediate vicinity, and the boundaries of which were supposed to be on the west, the river Gaudalupe and the land of Narvaez, San Juan Bautista, on the south Santa Teresa, on the east the Ranchos de Pala and Socayre, and on the north the Rincon de los Esteros, granted to Ignacio Alvisu. None of the lands above described as having been granted to individuals being included within said boundaries.

227 ANTONIO SUNOL.

Subscribed and sworn to before me September 29th, A. D. 1857.

[SEAL.] JNO. B. HEWSON, *Co. Clerk*,
By LEVI P. PECK, *Deputy*.

District court of the United States for the northern district of California.

THE UNITED STATES
vs.
THE MAYOR AND COMMON COUNCIL of the city of San Jose. } No. 286, L. C.—No. 419, dist. court.

Jose Noriega, being duly sworn, deposes and says that he is 57 years of age, and resides in the city of San Jose; that he has resided in the former pueblo, now city, of San Jose since the year 1835, and during part of the year 1839 held the office of alcalde of San Jose; that he has had read and translated to him, correctly as he believes, the foregoing affidavit of Don Antonio Sunol; that, according to the best of his knowledge and belief, the statements therein made are true, and he concurs in the same so far only as anything therein stated refers to matters and things subsequent to the year 1835, and up to the date hereof.

JOSE NORIEGA.

228 Subscribed and sworn to before me September 29th, A. D. 1857.

[SEAL.] JNO. B. HEWSON, *County Clerk*,
By LEVI P. PECK, *Deputy*.

Jose Figueroa, brigadier general of the Mexican republic, commanding general inspector and superior political chief of the territory of Upper California:

The most excellent territorial deputation, desirous to apportion to the pueblos the necessary funds for the expenses and works of public utility, has been pleased to ordain the following:

Plan of ways and means for municipal funds of the corporations of the territory of Upper California:

Art. 1st. The corporations will proceed, by the customary methods, to solicit that there be laid out, to each pueblo, lands for commons and property.

2nd. The lands of property which may be apportioned to each pueblo shall be subdivided into moderate and small portions, and may be rented or sold at once at public auction; the actual possessors of such lands shall pay the yearly tax which, in the judgment of the corporations by previous information of three intelligent and veracious persons, may be imposed thereon.

3rd. For the grant of a lot on which to erect habitations the parties interested shall pay six dollars—two rials—for each lot of one hundred
229 varas square; and so, progressively or diminutively, they shall pay at the rate of two rials per vara front.

4th. The constitutional corporations, in their respective demarcation, shall be able to concede, provisionally, the use of branding irons; that, at the request of parties interested, they may present for record, collecting for each one of them at the time of conceding the permission, the amount of twelve rials, which shall be applied to the municipal funds.

5th. The political chief hereby commands, and all persons are informed, that the individual who may not have the corresponding record of the branding iron which he has in use will be obliged to present himself to the corporation of his jurisdiction for the object of obtaining the respective permission, as is indicated by the foregoing record, for which they shall pay likewise the same sum which is determined by the 4th article hereof.

6th. For the slaughtering of a head of cattle for general or private purposes the owner shall pay a half rial, a like sum for a sheep, and two rials for a pig.

7th. The stores in which wearing apparel is sold shall pay one dollar per month, and retail liquor and grocery stores, bar-rooms, and any other business, four rials.

230 8th. Every apparatus used to weigh or measure, when the same is sealed by the guager, shall pay a tax of one rial.

9th. The performers of rope dancing, actors, and puppet shows shall be taxed two dollars for every exhibition.

10th. Billiards shall pay one dollar per month.

11th. In the ports of Monterey, Sn. Francisco, Santa Barbara, San Pedro, and San Diego every national ship that does not belong to the navy shall pay a municipal tax of one-half rial for every package landed for the purpose of trade; and foreign vessels, in like manner, shall pay one rial per package in the aforesaid ports.

12th. The two rials per ton on foreign vessels, which, according to art. 4 of the tariff of maritime customs of 16 November, 1827, were ceded to the States, shall be solicited from the supreme government, that it may be granted to the territory, as belonging to it, which products go into the treasury of the diputation.

13th. Those engaged in fishing and otter hunting shall pay for every pelt, the size of which may be upwards of a vara, four rials, and for beaver skins they shall pay the same sum of four rials.

231 14th. The pecuniary fines which for trifling transgressions the constitutional alcaldes may impose, and likewise the political chief, such sums shall be applied to the municipal funds.

15th. The municipal tax which domestic liquors have heretofore paid are reduced, from the publication of this decree, to three dollars per barrel of aguardiente, two dollars per barrel of angelica, and twelve rials for each one of wine, which the importers shall pay at the place where they sell it.

16th. Foreign aguardiente, imported into the country for the purpose of trade, shall pay a municipal tax of one dollar per gallon; gin shall pay the same duty; wine and beer shall pay four rials per gallon.

17th. There is established a voluntary contribution for all vessels, domestic and foreign, that may cast anchor in the bay of Monterey for the exclusive object of building a wharf. Every captain, supercargo, or master of a vessel may give what he voluntarily pleased. The captain of the port shall collect and preserve in his charge the proceeds of this contribution, and it shall be employed exclusively in the construction of the wharf; and this work being finished, the contribution shall cease.

232 18th. For every auction in which merchandise is publicly sold the auctioneers shall pay three dollars for municipal tax.

19th. In consideration of the urgency of funds for the ordinary expenses and pre-eminent operations of the pueblos, in conformity with specification 4th, article 335 of the constitution now in force and previous to the ascension of the political chief, he will exercise the discretionary powers accorded to him in the articles 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, and 18 thereof, which the said political chief orders to be observed in the usual terms.

20th. This plan shall be reported to the supreme government, soliciting the approbation of the general congress to the same.

21. The director of the maritime custom-house is requested by the political chief to give notice to the corporation of this metropolis of the quantity and qualities of liquors that he may guage for every vessel, so that, in view of the aforesaid notice, the precautions may be taken which appear most expedient to him for the object of avoiding any fraud.

And, in order that all persons may be informed hereof, it is ordered
233 that the same be published by proclamation, and that due compliance be given to the same by posting it in the public places and circulating it to whomsoever belongs the care of its observance.

Given in Monterey on the 6th of August, 1834.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO, *Sec'y.*

Jose Figueroa, general de brigada de la republica Mejicana, comandante general, inspector gefe superior politico del territorio de la Alta California:

La exsma diputacion territorial deseosa de proporcionar a los pueblos los fondos necesarios para los gastos y obras de comun venefisencia se ha servido acordas el seguiente.

Plan de propios y arbitrios para fondos municipales de los ayuntamientos del territorio de la Alta California:

Art. 1st. The ayuntamientos occurriran por los conductos ordinarios, a solicitar se senalar a cada pueblo, terrenos para ejoidos y para propios.

2. Los terrenos de propios que se, sena len a cada pueblo seraa sat
234 dios dos en porclones medianas, y pequenas y podran arrendarse o darse en senso enfitentico en publica subasta: los actuales posecderes de terrenos de prophia pagaran el senso anual que a juicia los ayuntamentos previo informe de tres hombres inteligentes y de probidad, se les imponga.

3. Por la consecion de un solar para formas habitaciones pagaran los interesados seis pesos dos reales por cada solas de cien varas en cuadro y asi propresiramente o diminutivamente, pagasan a dos reales por vara de frente.

4. Los ayuntamientos constitucionales en su respectioa demarcacion podran provicionalmente concedes el uso de los frerros de herrar que a pedimento de los interesados se les presenten para sa rejistro, cobrando por cada uno de ellos el valor de dose reales que aplicasa a los fondos municipales.

5. El Senor Gefe Poletico scorisa providencias que lleque a noticia de todos, que el individuo que no tenga el registro correspondiente del fierro de herrar que tiene en uso; debera presentaose a ayuntamientos de
235 su jurisdiccion conobjeto de obtener el respectivo permiso previo el indicado rejistro porel que pagaran igualmente la misma cantidad que queda asignada en el art. 4o.

6. Per el dequello de una res, siendo en abasto publico o matanza pagasa el duena medio real: igual cantidan por el de un carnero y dos reales por un cerdo.

7. Los tiendas en que se ecspenda ropa, pagarun mensalmente un peso y las pulperias, cantinas y cualquiera otro comercio cuatro.

8. Cada piesa de los que sirvan para pesas y medir, cuando se selle por el fiel ejecutor pagara un real.

10. Los villares pagran un peso mensal.

11. En los puestos de Meonterey, S. Francisco, Sta. Barbara, S. Pedro, y S. Diego, todo brigu uacional, que no sea de guerra pagara por derecho municipal, medio real por cada bulto, que desembarque con objeto de comercio; y los estrangesos en iguales circumstancias, pagaran un real por bulto en los ecspresados puertos.

236 12. La dos reales por tonelada de brigues estrangeros que segun el art. 4 del arancel de aduanas mearitimas de 16 de Nobrimbre, de 1827, frieson cedidos a los Estados se solicitara del gobrerno supremo los concedea el territorio para propios cuyos productos nigresen a la tesoveria de la diputacions.

13. Los empresarios en la pesca y caza de nutrias pogaran por cada friel cuyo tamano sea devara en edelante cuatro reales y por los pieles de castar pagran los mismos cuatro reales.

14. Los multas o paras pecuniarias que por delitos ieves impongan los alcaldes constitucionales y aun el Sr. Gefe Politico, seran aplicadas sus cantidades a los fondos municipales.

15. El derecho municipal que han pagado los licores nacionales quedan reducidos desde la publicacion de este acuerdo a tres pesos por barril de aguardiente, dos pesos por uno de angelica y doce reales por cada uno de vino que pagaran los introductores en el punto que espendan.

16. El aguardiente estrangero que con objeto de comercio se introdzca en el pais, pagara por derecho municipal un peso por galon, igreal der-
237 cho pagran la ginebra; el vino y cerveza pagran cuatro reales por galon.

17. Se establece una contribucion voluntaria a todos los brigues nacionales y estrangeros que disen fondo en la Bahia de Monterey con esclusivo ebjeto de construir un nucelle. Cada capitan sobre cargo o dueno de brigue dara lo vue voluntariamente guste; los pro ductos de esta contribucion la colectara y conservara a sa cargo el capitan de puesto; esclusivamen to seran invertidos en la construcion del muelle y acabada que sea esta obra cesara la contribucion.

18. Por cada admoneda en que se rematen efectos de comercio por publica subasta pagaran los empresarios tres presos de derecho municipal.

19. En consideracion a la urgencia de fondos para los gastos ordinarios y obras preferentes de los pueblos; de conformidad con la atribucion 4'a art. 335 de la constitucion vigente y previo ascenso del Sr. Gefe Politico se usara de los arbitrios acordades en los articulos 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17 y 18, que el citado Gefe Politico mandara observar en los
238 terminos acostombrados.

Se dara cuenta al supremo gobierno con este plan del congreso general la aprobacion de el.

21. Se imitara por el Sr. Gefe Politico al Administrador de la aduana maritima, para que se sirva dar noticia al ayuntamiento de esta capital de la cantidad y especies de licores que aforecada buque, para que en vista de la espresada noticia, tome las providencias que le parescan mas convenientes a fu de certas cualqueva fraude.

Y par que llegue a noticia de todos mando se publique por bando y se le

de el devido cumplimiento, figandore en los parages publicos y circulan dore a quienes toque cuidar de su observancia.

Dado en Monterey, a 6 de Agosto, de 1834.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO, *S'rio.*

STATE OF CALIFORNIA,
County of Santa Clara, city of San Jose, ss:

I, Chapman Yates, city clerk of the city of San Jose, county and
239 State aforesaid, do hereby certify that the foregoing, on pages 1, 2, 3, 4, 5 and 6 of this, contains a full true and correct copy of an instrument now on file, and existing in the city archives of the city of San Jose, Santa Clara County, California, and at this present time under my charge.

Witness my hand, with the seal of the aforesaid city hereto affixed, this 7th day of October, A. D. 1857.

[SEAL.]

CHAPMAN YATES, *City Clerk.*

STATE OF CALIFORNIA,
County of Santa Clara, ss:

On this tenth day of October, A. D. 1857, personally appeared before me, the undersigned county clerk in and for said county, George M. Yoell, who, being first duly sworn, deposes and says that he has compared the foregoing copy with the original existing in the archives of the former pueblo of San Jose, which are now in the custody of the city clerk of the city of San Jose, and that it is a true copy of the original.

GEO. M. YOELL.

Subscribed and sworn to before me this day and year last above
240 written.

[SEAL.]

JNO. B. HEWSON, *Co. Cerk,*
By LEVI P. PECK, *Deputy.*

Endorsed: Filed Nov. 23, 1857.

JOHN A. MONROE, *Clerk.*

Order to set aside decree, and rehearing granted.

District court of the United States for the northern district of California.

THE UNITED STATES
vs.
THE MAYOR AND COMMON Council of the City of San Jose. } No. 419 D. C.—No. 286 L. C.

This day came on to be heard the motion of the United States to set aside the decree heretofore made in this cause at this term, and for a rehearing, and it being inconvenient for the court to hear and decide upon said motion before the close of this term, and for the counsel of the mayor and
241 common council of the city of San Jose now to argue, and said counsel consenting hereto, it is ordered that the enrollment of the said decree be suspended, that the decree be set aside, and the cause be restored to the calendar for a rehearing, with leave to both parties to introduce further evidence, and with leave to the counsel of the mayor and common council of the city of San Jose at the next term to move to vacate this order.

Said motion, by consent of counsel, now given in open court to be heard and decided in like manner as this motion for a rehearing, and upon the papers now filed, and such other papers as either party may present.

December 2d, 1857.

OGDEN HOFFMMAN,
U. S. Dist. Judge.

Endorsed: Filed Dec'r 2d, 1857.

JOHN A. MONROE, *Clerk*,
By J. EDGAR GRYMES, *Deputy.*

242 *Order for continuance of motion for rehearing.*

In the district court of the United States for the northern district of California.

THE MAYOR AND COMMON COUNCIL of the city of San Jose, appellants, *vs.* THE UNITED STATES, appellee. } 419.

An order having been heretofore made opening the above cause with liberty to the appellants to move to set aside the order so made, and a motion having been this day duly made to set aside said order, and F. M. Haight appearing as counsel for the appellants, and the district attorney of the United States for the northern district of California appearing for the respondents, and for want of time to complete the argument of said motion, it is ordered by the said court, both parties consenting and agreeing thereto, that the further hearing of said motion be postponed until the first Monday of June next, and then, or at such further day as may be appointed, to be heard with the same effect as if the hearing and final decision of said
243 motion was had during the present term.

Endorsed: We consent to within order.
May 24th, 1858.

P. DELLA TORRE, *U. S Att'y.*
FLETCHER M. HAIGHT,
Sol. for Appellants.

Filed May 24, 1858.

W. H. CHEVERS, *Clerk.*

Motion and order for subpœna duces tecum.

U. S. dist. court northern dist. Cal'a.

THE UNITED STATES *vs.* THE MAYOR AND COMMON COUNCIL of San Jose. } No. 419.

And now, to wit, on this 2d day of September, A. D. 1858, comes P. Della Torre, esq., U. S. attorney, and moves the court for an order to the clerk of this court to issue a *subpœna duces tecum* to James L. Ord, a resident of Santa Barbara, in the southern district of California, to appear and
244 testify as a witness in said case on behalf of the United States, at the district court-room of the United States in San Francisco, at the hour

of 11 o'clock a. m., on the 14th day of Sept., 1858, and to bring with him and produce on such examination a certain document, or documents, purporting to constitute the full espediente issued by the supreme government of Mexico, confirming the title of Pedro Chaboya to the tract of land in Santa Clara County, near or within the pueblo of San Jose, and known as La Poza de San Juan Bautista; and for ground of this motion the said district attorney states that the said document, or documents, is material evidence in behalf of the United States in the case of the United States *v.* the mayor and common council of the city of San Jose, now pending in this court.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Thursday, the 2d day of September, in the year of our Lord one thousand eight hundred and fifty-eight.

245 Present: The Honorable Ogden Hoffman, district judge.

THE UNITED STATES
v.
THE MAYOR AND COMMON COUNCIL of city San Jose. } No. 419.

And now, to wit, on this 2d day of September, A. D. 1858, on hearing of the foregoing motion, and the court being satisfied of the materiality of the said document, or documents, as evidence in this case, it is ordered that a *subpœna duces tecum* be issued by the clerk of this court for the said James L. Ord, requiring him to appear and testify as a witness in the behalf of the United States in this case, at 11 o'clock on the fourteenth day of Sept., 1858, at the district court-room of the United States in the city of San Francisco, and to bring with him and produce at the said time the document or documents specified in the motion aforesaid; and it is further ordered that the said *subpœna duces tecum*, be served by the marshal of the U. S. for the northern district of California, pursuant to the act of Congress in such case made and provided.

OGDEN HOFFMAN,
U. S. Dist. Judge.

246 Endorsed: Filed September 4, 1858.

W. H. CHEVERS, *Clerk.*

247 *Order to examine J. L. Ord.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room, in the city of San Francisco, on Thursday, the sixteenth day of September, in the year of our Lord one thousand eight hundred and fifty-eight.

Present: The Honorable Ogden Hoffman, district judge.

THE UNITED STATES
ags.
MAYOR, &c., CITY SAN JOSE. } No. 419.

It having been suggested by P. Della Torre, esq., U. S. attorney, that it is important to examine Dr. J. L. Ord on behalf of the United States, who is at present in this city but is expected to leave next Saturday, on the steamer Senator, it is ordered that the United States have leave to examine said J. L. Ord at 2 o'clock p. m. on to-morrow, the 17th instant, and that the counsel for claimants be notified instanter.

OGDEN HOFFMAN, *Dist. Judge.*

Endorsed: Filed September 16, 1858.

W. H. CHEVERS, *Clerk.*

248 *Deposition of J. L. Ord*

United States district court, northern district of California.

THE UNITED STATES
vs.
MAYOR, &c., CITY OF SAN JOSE. } San Francisco, September 17th, 1858.

On this day, before J. Edgar Grymes, a special commissioner and referee appointed by the district court of the United States for the northern district of California, duly authorized to administer oaths, &c., &c., came J. L. Ord, a witness produced on behalf of the United States in case No. 419, being an appeal from the board of commissioners to ascertain and settle the private land claims in the State of California, in case No. 286 on the docket of the said board of commissioners, and was duly sworn, and testified as follows:

Present: P. Della Torre, esq., U. S. district att'y, and J. B. Crocket, esq., for claimant.

Questions by U. S. dist. att'y.

Ques. 1st. What is your name, age, and place of residence?

Ans. My name is James L. Ord, 35 years old, and I reside at Santa Barbara.

249 Ques. 2nd. Have you brought with you the document which you were required to produce by virtue of the subpœna "decus terum" served upon you in this case?

Ans. I have not.

Ques. 3d. Do you know the document alluded to?

Ans. I do not.

Ques. 4th. Have you never seen such a document?

Ans. I have not.

Ques. 5th. Nor heard of it?

Ans. I have heard of it.

Ques. 6th. In whose possession is it?

Ans. That I do not know.

Ques. 7th. As far as you do know in whose is it?

Ans. It has been lost or mislaid. It was in the possession of Mrs. Ord, formerly Mrs. Jimeno. The lady of which I speak is my wife. Said document has been lost some time ago, about one year ago. It was brought
250 from Misaco by Mrs. Ord. It was left by her at her father's house, and it has been mislaid there, as she told me. (Objected to by claimant's counsel as heresay evidence.)

Ques. 8th. Did you make any search for this paper at any time before receiving this subpœna in this case?

Ans. I did not. I sent a third party to look for it—De la Guerra—her grandfather, to the house of Don Jose. It was a daughter of Mrs. Ord that I sent; she did not find it. This was after the death of Don Jose de la Guerra. Maria Antonio Jimeno is the name of the lady I sent for it.

Ques. 9th. Have you made any search for it since you received the subpœna?

Ans. I have not.

Ques. 10th. Do you know if Mrs. Ord ever made any search for it?

Ans. I believe not.

Ques. 11th. At what time did Mrs. Ord bring that paper with her?

251 Ans. I think it was two years last April.

Ques. 12th. Are you quite certain that since you received that subpœna Mrs. Ord has made no search for that paper?

Ans. I am.

Cross-examination.

Ques. 1st. Have you any knowledge of the paper referred to except what you have derived from your wife?

Ans. I have not.

JAMES L. ORD.

Sworn to and subscribed before me this 17th day of September, A. D 1858.

J. EDGAR GRYMES,
Special Commissioner.

Endorsed: Filed Sept. 17th, 1858.

W. H. CHEVERS, *Clerk.*

Notice of argument of motion.

District court of the United States for the northern district of California.

UNITED STATES
vs.
MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE. } No. 419.

252 You will please take notice that on Monday next, the 15th day of November, 1858, at the opening of the court on that day, or as soon thereafter as counsel can be heard, the motion made on behalf of the United States to set aside the decree heretofore rendered in said cause, and to open the cause for further proofs, will be brought on for argument.

Dated at San Francisco, the 9th day of November, 1858.

J. B. CROCKET,
Att'y for Claimants.

To P. DELLA TORRE, Esq., *U. S. Dist. Att'y.*

Endorsed: Filed Nov. 15th, 1858.

W. H. CHEVERS, *Clerk.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-house, in the city of San Francisco, on Thursday, the second day of June, in the year of our Lord one thousand eight hundred and fifty-nine.

Present: The Honorable Ogden Hoffman, district judge.

253 *Order reviving suit in name of present corporation of San Jose.*

UNITED STATES
vs.
MAYOR AND COMMON COUNCIL OF CITY OF SAN JOSE. } No. 419.

It appearing to the satisfaction of the court that, during the pendency of the above cause in this court, the legislature of the State of California, by an act approved March 27th, 1857, repealed the original act by which the claimants in this cause were incorporated, and created a new corporation by the style of the "Board of Trustees of the City of San Jose," who by the provisions of said act succeeded to all the lands, property, and rights of property of the said mayor and common council and of the former pueblo of San Jose; and it further appearing that the said last-named act has since then been repealed by an act of the legislature of the State of California, passed in the year 1859, and that by the said last-named act a new corporation was created, under the title of the "Mayor and Common Council of the City of San Jose," which last-named corporation has succeeded to all the lands, property, and rights of property of the said board of trustees, and

of the former corporation of the mayor and common council of the city of San Jose and of the former pueblo of San Jose: Now, therefore, it is hereby ordered that the present corporation of the mayor and common council of the city of San Jose be substituted as claimants in this cause, in lieu of the original petitioners, and that said corporation be permitted to prosecute this cause in the same manner and with like effect as the said original petitioners might or could have done.

Endorsed: Filed June 2nd, 1859.

W. H. CHEVERS, *Clerk.*

Copy from archives.—Communication from Figueroa.

No habiendose hecho la div'n de limites a cada municipalidad, y siendo preciso que las autoridades locales tengan un conocimiento exacto de la extencion en que daven ejercer su jurisdiccion tanto en la politico como por lo respectivo a la administracion de justicia, entretanto se verifica la esperada division de limitas; deseoso de evitar toda competencia entre las autoridades, y arreglar en loposible la administracion publica he resuelto provision almenta 1o. Que la keclaracion politica del precidio de Sn. Francisco se hace extenciva hasta el rancho de las Pulgas de donde tomando una linea paralela asi allindero de los ranchos de Castro y Peralta, comprendera todos ranchos y congregaciones aproximadas a la bahia y a los Rios de San Joaquin y Sacramento: todas las missiones ranchos y demas establicimentos del otro lado de la bahia hasta la gentilidad: y por la costa del oceano hasta la linsa divisoria de tierras entra la meision de San Francisco y Santa Cruz 2o. La demarcacion polittco del pueblo de San Jose Guadalupe daro principio, desde la lenia trasada a la de San Francisco en el rancho de lrs Pulgas comprendieudo las misiones de Santa Clara y San Jose todos los ranchos y congregaciones del, cento hasta la gentilidud al rumbo de los tulares; siguiendo la cordillera y el valle hasta el rancho a la Laguna: desde este punto hasta tocar con la Sierra de Santa Cruz caya cumbre serviia də linea divisoria entre San Jose y Brancifute.

[SEAL.]

3o. La demarcacione politica de la villa de Branciforte comprendera el espacio que media entre la cumbre de la Jierra de Santa Cruz y la costa, y desde los linderos del Terreno de San Francisco hasta el rancho de San Andres de la propriedud de D. Joaquin Castro.

4o. La dimarcacion politica de Monterrey, comenzary en la linea divisorio Sinalada a la villa de Brancitorte y Pueblo de San Jose y terminari en la mission de San Antonio, entre el espacio que media de la costa a la cordillera bue la separadel valle de los Tulares.

Y lo comunico a va para su conosimiento y demas fines advertido, de que este senalamiento es muy yrovicionol para evitar confuciones y dudas; entretanto se forma la division exacta de limites y se establescan las demas Ayuntamentos en los poblaciones y misiones que combenga.

[SEAL.] Dios y Libertad, Monterey, Junio 28, de 1834.

JOSE FIGUEROA.

S. ALCADE CONSTITUCIONAL *del pueblo de San Jose.*

STATE OF CALIFORNIA:
County of Santa Clara, city of San Jose, ss:

I, Chapman Yates, city clerk of said city, and as such having in my custody and under my control the documents and archives of the former pueblo de San Jose, do hereby certify that the foregoing is a full, true, and correct copy of an original document now on file in the archives of said city of San Jose in my office. In testimony whereof, I have here-

[SEAL.] unto set my hand and affixed the seal of said city this 24th day of April, 1858.

CHAPMAN YATES,
Clerk of the city of San Jose.

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

Copy from archives.— Translation of communication from Figuera.

[SEAL] No divisory limits having been made to each municipality, and it being requisite that the local authorities shall have an accurate knowledge of the extent over which they should exercise jurisdiction, political as well as respecting the administration of justice, meanwhile the divisions expressed are confirmed; desirous of avoiding all competition between the authorities, and regulate as far as possible the public administration, I have resolved provisionally—

1st. That the political limits of the presidio of San Francisco shall
258 extend as far as the rancho de las Pulgas, and from thence to the dividing line between the ranchos of Castro and Peralta, and comprising all ranchos and communities next to the bay and to the rivers San Joaquin and Sacramento, all missions, ranchos, and other establisments upon the other side of the bay as far as the savages, and along the shore of the ocean as far as the dividing line between the lands of the mission of San Francisco and Santa Cruz.

2d. That the political limits of the pueblo de San Jose Guadalupe shall commence at the line designated for San Francisco at the Pulgas rancho, comprising the missions of Santa Clara and San Jose and all the ranchos and communities of the center as far as the savages, in the direction of the Tulares; following the cordillera and the valley as far as the rancho de la Laguna, from thence until it reaches the Santa Cruz Mountains, the summit of which shall serve as the divisory line between San Jose and Branciforte.

3d. The political limits of the village of Branciforte shall comprise
259 the space lying between the Santa Cruz Mountains and the coast, and from the line of the land of San Francisco as far as the rancho of San Andres, the property of D. Joaquin Castro.

4th. The political limits of Monterey shall commence at the dividing line designated to the village of Branciforte and pueblo of San Jose, and shall terminate at the mission of San Antonio, over the space lying between the cordillera which separates it from the valley of the Tulares.

And I communicate it to you for your information and other objects, it being understood that this division is only provisional to avoid confusion and doubts during the time that the exact limits be fixed and the other ayuntamientos be established in the towns and missions in which it may be convenient. God and liberty.

Monterey, June 28th, 1834.

JOSE FIGUEROA.

CONSTITUTIONAL ALCALDE *of the pueblo of San Jose.*

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

260 *Copy of archives.—Communication from Estrada.*

PREFECTURA DEL PRIMER DISTRITO.

En vista del oficio de V. fecha 15 del corriente, el que se contrae a que se fijen los limites de su jurisdiccion; bebo decirle q. el S. Prefecto proprietaris D. Jose Castro dispuso q. la linea divisoria de ese pueblo y San Francisco, la fuesa el orroyo conocido con el nombre de S. Francisquito.

Esto no obstante se trendran presente las razones q. sobre ese asunto ha

vertido ese juzgado en el proximo arreglo q. sobre el mismo punto piensa hacer el Super. Gobr: del departments.

Todas las comunicaciones q. en lo de adelante tenga q. hacer ese juzgado, seram pr. el conducto del subprefecto de este partido, en cuinplimiento del arvo., 117. de la ley de 20 de mro. de 1837. Dyos y libertad.

Monterey, Augusto 2, de 1841.

JOSE R. ESTRADA.

SR. JUEZ DEL PUEBLO *de S. Jose Alvarado.*

STATE OF CALIFORNIA :

County of Santa Clara, city of San Jose, ss:

261 I, Chapman Yates, city clerk of said city, and as such having in my custody and under my control the documents and archives of the former pueblo de San Jose, do hereby certify that the foregoing is a full, true, and correct copy of an original document now on file in the archives of said city of San Jose, in my office.

In testimony whereof, I have hereunto set my hand, and affixed the seal of said city, this 24th day of April, A. D. 1858.

[SEAL.]

CHAPMAN YATES,
Clerk of this city of San Jose.

Endorsed : Filed June 20th, 1859.

W. H. CHEVERS, *Clerk.*

Translation of communication from Estrada.

PREFECTURE OF THE FIRST DISTRICT.

In view of your official note of the 15th inst., upon the subject of establishing the limits of your jurisdiction, I must say to you that the proprietary prefect, Don Jose Castro, has directed that the divisory line of this
262 pueblo and San Francisco be the creek known by the name of San Francisquito, notwithstanding which, regard will be had to the representations made by that (juzgado) tribunal in the regulation which is contemplated to be made by the superior government of the department.

All communications which you may desire, or have to make in future with this tribunal will be through the sub-prefect of this district in accordance with act 117 of the law of the 20th of March, 1837. God and liberty.

Monterey, August 2d, 1841.

JOSE R. ESTRADA.

TO THE JUDGE *of the pueblo of San Jose Alvarado.*

Endorsed : Filed June 20th, 1859.

W. H. CHEVERS, *Clerk.*

Copy of communication from Figueroa.

Jose Figueroa, general de brigada de la republica of Mejicana, commandante general y uspecto y gefe superior politico del territorio de la Alta California :

La eesma. Disputacion territorial deceosa de proporcionar a los
263 pueblos los fondos necesarios para los gastos y obas de comun vene fisencia, se ha servido a cordar el seguiente. Plan de propios y arbitiss para fundar municipiles de los aguntamien tos del territoris de la Alta California.

Art. 1o. Los ayuntamientos, occurriran par los conductos, ordinarios, a solicitar se senalen a cada puebla, tenemos para ejidos y para propios.

2o. Los terrenos de propios quer se senalen a cada pu eblo, seren subdivididos en podciones medianas y pequenas y podran arr endarse, a darse en sensi enfitentico en publica subasta, los actuales proseedores de terrenos de propios, pagaran el senso annual que a juicio de los ayuntamientos, privio informe de tree hombres inteligentes y de probidad, se les impunga.

3. Por la consecion de un solar para formar habitaciones, pagaran los interesados, seis pesos dos reales par cuda solar de cien varas en cuadro, y asi progresivamente i deminutivamente pagaran a dos reales por vara de frente.

4. Los ayuintamientos constitucionales en su respectiva, demarcion po dran provicion almente conceder eluso de los fierrmos de herrar que a predimento de los interesados se les presenten para su regristo, cobrando
264 por cada uno de ellos al tiempo de oonceder el permiso, el valor dedoce reales que applicara a los fondos municipales.

5. El senor Gese Politico se servira providenciar que ellegue a noticia de todos, que el individuo que no tenga el regrito correspondiente del fierro de herrar que tiene de uso, dibera presentarse al ayuntamiento de su jurisdiccion con objecto de obtener el respectivo permiso, previo elindicado registro por el que pagaran igualmente la misma cantidad que qued a asignada en el art. 4o.

6. Por el deguello, de una rez, siendo en abasto publico, o matanza, pagara el dueno medio real: igual cantidad por el de un carnero y dos reales par un cerdo.

7. Las tiendas en que se espenda ropa, pagaran mensualmente un peso y las pulperias, cantinas y cualquiera otro comercio, cuatro reales.

8. Cada *piesa* de las que servan para pesar y medir, cuando se selle por el fiel ejecutor pagara un real.

[SEAL.] 9. A los empresarios de maromas, comedias ytiteres, se cobraran dos peros por cada funcion.

10. Lor villares pagaran un peso mensual.

11. En los puertos de Monterey, S Francisco, Sta. Barbara, S. Pe-
265 droy, S. Diego, todo buque nacional que no sea degurra, pagarra por derecho municipal, medio real por cada bulto que desembarque con objeto de comercio, y los estrangeros en iguales circumstancias pagaran un real par bulto en los expresados puertos.

12. Los dos reales por tonelada de bugues estrangeros, que segun el art. 4. del arancel de aduanas maratimas, de 16 de Nobiembre de 1827 fueron sedidos a los estidos, se solicitara del gobierno supremos los concepa al territorio para propios cuyos productos ingresen a la tesoreria de la diputacion.

13. Los empresarios en la pesca y caza de mitrias, pagaran por cada piel cuyo tamario sea de vara en adelante, cuatro reales y por las pieles de castor, pagaran los mismos cuatro reales.

14. Las multas o penas pecuniarias vue por delitos leves, impongan los alcaldes constitucionales y aun el Sr. Gesse politico, seran applicados sus cantidades a los fondof municipales.

15. El derecho municipal que han pagado los licores nacionoles, que dan reducidos desde la publicacion de este acuerdo a tres pesos por larie de aguadiente, dos pesos por uno de angelica, y doce reales por cada
266 uno de uno, que pagaran los introductores en el punto que espendan.

16. El aguardiente estrangero que con objeto, de comercio se introdusca en el pais, pagara por derecho municipal, un peso por galon, igual derecho pagara la Ginebra el vino y cerveza pagaran cuatro reales por galon.

17. Se establese una contribucion voluntaria a todos los luques nacionales y estrangeros que dieren fondo en la bahia de Monterey, con el esclusivo objito de construir un mulle, cada capitan, sobre cargo o dueno de buque dara lo que voluntariamente guste: los productos de esta contribucion, la collectara y consemara a su cargo, el capitan de puerto, exclusiveamente seran investidos en la construccion del muelle y acabada que sea esta obra, cesara la contribucion.

18. Por cada almoneda en guese rematen efectos de comercio por publica

subasta pagaran los empresarios, tres pesas de derecho municipal.

19. En consideracion a la urgencia defondos, para los gastos ordinarios y obras pereferentes de los pueblos, de conformidad con la atribu-
267 cion 4a. art. 335, de la constitucion vigente y precio ascenso del Sr. Gesse politico, se usara los armitrios a cordados en los articulos 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 17, y 18, que el citado Gese politico mandara observar en los terminos acostumbrados.

20. Se dara cuento al supremo gobierno con este plan solistand lcneo dogreso general, la aprobacion de el.

21. Se invitara por el Sr Gefe Politico al Administradon de la aduana Maritima para que se sirve dar noticia al Ayuntamiento de esta capital de la cantidad y especies de licores afue cada buque para que en vista de las espresada noticia tome las providencias que le parescan mas convenientes a fin de evitar cualquiera fraude —

Y para que lleque a noticea de todos, mande se publique por lando y se lede el devido cumplimiento fijandose en los parages publicos y circulandose a quienes toque cuidar de su observancia, Dado en Monterey, a 6 de Agosto, de 1834.

JOSE FIGUEROA.
AUGUSTIN V. ZAMORANO, *S'rio.*

268 STATE OF CALIFORNIA,
City of San Jose, County of Santa Clara, ss:

I, Chapman Yates, city clerk of said city, and as such having in my custody and under my control the documents and archives of the former pueblo de San Jose, do hereby certify that the foregoing is a full, true, and correct copy of an original printed document now on file in the archives of said city of San Jose, in my office.

In testimony whereof, I have hereunto set my hand and affixed
[SEAL.] the official seal of said city, this 24th day of April, A. D. 1858.

CHAPMAN YATES,
Clerk of the city of San Jose.

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

269 *Translation of communication from Figueroa.*

Jose Figueroa, general of bridage of the Mexican republic, general commanding, inspector and Superior political chief of the territory of Upper California:

The most excellent territorial deputation, desirous of providing for the Pueblos the necessary funds for expenses and works of common benefit, has seen fit to grant the following:

Plan for municipal lands and taxas for municipal funds of the ayuntamientos of the Territory of Upper California.

ART. 1st. The town councils (ayuntamientos) will apply in the usual method to solicit that thence be designated to each pueblo common lands (egidos) and municipal lands (propios.)

2d. The municipal lands which may be designated to each pueblo shall be subdivided into middling and small sized parcels, and may be rented or given in emphyteusis at public sale, the actual possession of municipal lands shall pay annually what shall be imposed by the town councils upon the report of three intelligent and honest men.

270 3d. For the grant of a lot upon which to build dwelling-houses, the interested parties shall pay six dollars and twenty-five cents for each lot of one hundred varas square, and so increasingly or diminishingly they shall pay twenty-five cents per vara front.

4th. The constitutional town councils in their respective localities may provisionally grant the use of branding irons which may be presented to them by persons interested for registry, collecting for each one of them at the time of granting it the sum of one dollar and fifty cents, which shall be applied to the municipal fund.

5th. The political chief will take measures that all be notified that any individual not having registered the branding iron used by him, must present himself to the town council of the jurisdiction in which he lives to obtain that permission, first having it registered, for which shall be paid the same amount mentioned in Art. 4th.

6th. For the killing of a beef for public sale or for slaughter the owner shall pay six and one-fourth cents, the same amount for a lamb, and
271 twenty-five cents for a hog.

7th. The shops in which clothing is sold shall pay monthly one dollar, and the pulperias, (place for selling liquors,) bars, and all kinds of trade, fifty cents.

8th. For every piece which shall be used to weigh and measure, at the time of sealing by the faithful executor, shall be paid twelve and a half cents.

9th. The conductors of circuses, commedics, and theatres shall pay two dollars for each performance.

10. Billiard tables shall pay one dollar monthly.

11. In the ports of Monterey, San Francisco, Santa Barbara, San Pedro, and San Diego all national vessels not of war shall pay a municipal tax of six and one-fourth cents for each package disembarked for commercial purposes, and foreign vessels under the same circumstances shall pay twelve and a half cents per package in said ports, which by the 4th article of the tariff of maritime customs of the 16th of November, 1827, were granted to the State, supreme government will be solicited to grant to the Territory for its own use, the product of which will go to the treasury of the
272 deputation.

13. The propectus of the fisheries and hunters of sea others shall pay for each skin of the length of one vara and over, fifty cents, and for the skins of beaver they shall pay the same sum.

14. The fines or pecuniary penalties for slight offences imposed by constitutional alcalde, and by the political chief, shall be applied to the municipal fund.

15. The municipal tax upon domestic liquors are rendered from the publication of this decree to three dollars per barrel for brandy, (aguardiente,) two dollars per barrel of angelica, and one dollar and fifty cents per barrel of wine, which shall be paid by the persons introducing them at the place of cirsumption.

16. Foreign brandy introduced into the country for commercial purposes shall pay a municipal tax of one dollar per gallon, gin the same tax, and wine and ale fifty cents per gallon.

17. There shall be established a voluntary contribution for all vessels, national and foreign, which anchor in the harbor of Monterey, with the
273 exclusive object of constructing a wharf. Each captain, supercargo, or owner of any vessel may give what he of his own will desires. The product of such contribution shall be collected and retained by the captain of the port in his custody, and shall be invested exclusively in the construction of a wharf, and when that work is completed the contribution shall be dis continued.

18. The proprietor of every auction establishment in which goods are sold at public auction shall pay three dollars municipal tax.

19. In consideration of the exigencies for funds for current expenses and preferred works of the pueblos, in conformity with the provision 4, act 335

of the present constitution, and the previous consent of the political chief, the taxes granted in articles 3, 4, 5, 6, 7, 8, 9, 10, 13, 14, 15, 16, 17, and 18, which the said political chief will order to be observed in the usual manner.

20. A report of this plan shall be made to the supreme government, and its approval solicited.

274 21. The political chief shall request of the administrator of the maritime customs that he give to the town council of this capital information of the kinds and quantities of liquors on board of each vessel, so that, in view of the aforesaid notice, they may take such precautions as may be necessary to avoid frauds.

And that it may come to the knowledge of all, I order that proclamation be made of it, and that it be posted in public places, and circulated among those charged with having it duly observed.

Given at Monterey, August 6th, 1834.

JOSE FIGUEROA.
AUGUSTIN V. ZAMORANO, *Sec'y.*

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

275 *Dep. of John Gilroy.*

District court of the United States for the northern district of California

MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE, app'tls,
vs.
THE UNITED STATES.

STATE OF CALIFORNIA,
Northern District ss:

Question 1. What is your name, age, and residence?

Answer. My name is John Gilroy; sixty-four years old; and reside in Gilroy, Santa Clara County, California.

Ques. 2. How long have you resided in California, and how long have you known the pueblo of San Jose?

Ans. I came first to California in 1814, and have resided in Gilroy since the year 1819; and have known the pueblo since I came to California in 1814.

Ques. 3. State if you know the boundaries of said pueblo, and were there any common lands belonging to it? And if so, how were they occupied?

276 Ans. The boundaries when I first knew the pueblo, was at a place called the Llagas, where there is a grove of trees on this side the bank of said river, and below there is a spring and a monument of stone, that is the southeast corner of said pueblo; from thence across the valley to the sierra on the northeast side of the valley; and from thence along the said sierra mountain to the callerd near Jose Higuera house, and the boundary line of the mission of San Jose; from thence to the estero near the embarcadero, (now alviso;) from thence up the Guadalupe to its source, passing the pueblo of San Jose; from thence to the Santa Cruz Mountains, and from thence, following the mountains, to the place called the Llagas. These boundaries were always pointed out to me by the alcaldes of the pueblo, and all the old inhabitants, and were used in common by the publidors in grazing their cattle and horses. No person was allowed to make a rodeo within the foregoing limits without the permit of the alcalde of said pueblo, in early time.

277 Quest. 4. State in detail your knowledge who had the ownership

of said lands, and what you may have learned from persons now deceased.

Ans. The ownership of said lands belonged to the people of the pueblo, as I learned when I first came to the pueblo, and was always recognized as the pueblo lands by every person. When I applied to Gov. Figueroa for a grant of land he informed me that the said described pueblo lands were given to the people of the pueblo by the king of Spain, and that he could not grant said lands away, and that he could do nothing with them, but he granted me a ranch up to and bounded by the pueblo lands, at a place called the Llagas. The northwest boundary of my grant runs across the valley with said southern boundary line of said pueblo.

Ques. 5th. State if you ever acted in any official capacity in California.

Ans. I acted as alcalde from the year 1830 up to the change of
278 government, as alcalde of the ranches, except one year and some months.

Ques. 6th. What was the jurisdiction of the alcalde of the pueblo in civil and criminal matters?

Ans. The jurisdiction extended as far as the pulgas on the west, from thence to the place of my residence; on the east as far as there were any settlements, and on the north as far as were any inhabitants—in civil cases.

JOHN GILROY.

STATE OF CALIFORNIA,
County of Santa Clara:

I hereby certify that the foregoing pages, numbered from one to three, inclusive, contain the deposition of John Gilroy, as taken by me on this the third day of May, A. D. 1858, in the city of San Jose, county and State aforesaid, and that the said Gilroy subscribed his name to the same, after hearing the said deposition carefully read over to him, and that he was duly sworn by me according to law.

In witness whereof, I have hereunto set my hand and official
279 seal this 3d day of May, A. D. 1858.

THOS. BODLEY, *Notary Public.*

[SEAL.]

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

Affidavit of John Gilroy, of Santa Clara County, State of California.

I, John Gilroy, of said county and State, after being duly sworn, state that my name is John Gilroy, aged sixty-four years next February; have resided in the pueblo of San Jose de Guadalupe, and at the place now called Gilroy, since the year one thousand eight hundred and nineteen; that I have acted several times as alcalde during that period; that I am familiar with boundaries of said pueblo de San Jose, and know the southern or southeast and western boundary to be from a monument near the hill on the west side of the valley of San Jose, at the place called Llagas. I was shown this monument by several citizens of the pueblo, and is about
280 eight leagues south or southeast of the city of San Jose. This monument is at a place called Llagas, and is not the creek of that name. The alcalde's jurisdiction of the pueblo of San Jose extended along the mountain to the San Francisquito Creek, where the boundary of the jurisdiction of the pueblo of San Francisco extended, thence down to the bay; on the north and northeast side of the bay as far as where there are any inhabitants. The boundary of the pueblo lands was from the moun-

tains on the east side of the bay to the bay at or close to the embarcadero, running near Higuera's house. From the bay, I always understood, it followed the river Guadalupe up to or near the Narvise or San John Beautisto rancho, from thence to the mountains, and from thence to the said monument at the place called Llagas. I know the lands within the described boundary belonged to the citizens of the pueblo, and that the early governors of California refused to grant lands to individuals within the limits of the pueblo, assigning the reason that he had no authority to grant lands
281 within those limits. I myself obtained a grant of land from the governor of California, which is bounded on the north by said pueblo lands; and there was great care and attention paid by the public officers in showing me the said boundary for my information and guide. The alcaldes of said pueblo were particular in prohibiting people from settling upon the lands belonging to the pueblo without their special permission. I know the governor of California refused to grant lands on said pueblo, and referred John Alvirez to the alcalde of San Jose Pueblo.

JOHN GILROY.

Subscribed and sworn to before me this 20th day of January, A. D. 1858.

JNO. B. HEWSON,

[SEAL.] *County Clerk of Santa Clara County.*

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

282 In the district court of the United States for the northern district of California.

Deposition of James Stokes.

MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE, appell'ts,
vs.
THE UNITED STATES.

STATE OF CALIFORNIA,
Northern District, ss:

Question 1. What is your name, age, and place of residence?

Ans. My name is James Stoke; reside in the city of San Jose; am 52 years of age.

Ques. 2. How long have you resided in California, and how long have you known the pueblo of San Jose?

Ans. I think I arrived in California in 1833, and have known said pueblo since 1834 or 1835.

Ques. 3. Did you ever act in any official capacity in said pueblo? and if so, state in what capacity.

283 Ans. I was appointed by Commodore Sloot, in 1846, civil and military commander of the central district, with the same jurisdiction as that exercised by the previous officials of said pueblo of San Jose, which jurisdiction extended from Las Llagas on the south to the San Francisquito on the northwest, and as far as San Antonio on the north, and eastward as far as the river San Joaquin. These were the recognized limits of the jurisdiction of the alcaldes of the pueblo.

Ques. 4. Did you ever hear whether or not the limits of the alcaldes' jurisdiction was limited to the east side of the Guadalupe River.

Ans. It was not limited to the east side of that river, but extended beyond it as far as the San Francisquito Creek.

Ques. 5. State, if you know, the boundaries of said pueblo, and whether there were any common lands belonging to said pueblo; and if, how were said common lands occupied?

Ans. I know, from common report among the people, what were
284 the common lands of said pueblo. They were bounded on the south by the Arroyo de las Llagas, and extended as far north as the embarcadero of Alviso, and extended from the mountains on the east of the valley to those on the west. These were the lands always recognized by every one, since my first acquaintance with said pueblo, as the common lands of the said pueblo. The river Guadalupe was fixed as the boundary of the common lands of the pueblo and the lands of mission of Santa Clara.

JAMES STOKES.

STATE OF CALIFORNIA,
County of Santa Clara, ss:

On this twenty-sixth day of April, A. D. 1858, before me, a notary public in and for said county, personally came James Stokes, who, having been by me duly sworn, says that he has heard the foregoing affidavit read, and knows the contents thereof, and that the facts therein stated are
[SEAL.] true, to the best of his knowledge and belief.

In testimony whereof, I have hereunto set my hand and affixed my official seal this the day and year last written.

285 SHERMAN O. HOUGHTON,
Notary Public.

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

District court of the United States for the northern district of California.

Deposition of Gerbacio Chabolla.

MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE, app'ts,
vs.
THE UNITED STATES.

STATE OF CALIFORNIA,
Northern District, ss:

Ques. 1. What is your name, age, and residence?

Ans. Gerbacio Chabolla; age, 55 years; pueblo of San Jose.

Ques. 2. How long have you resided in California, and how long have you known the pueblo of San Jose?

Ans. I was born in California, and have resided in the pueblo since I was a boy.

286 **Ques. 3.** State, if you know, the boundaries of the pueblo de San Jose, and whether there were any common lands belonging to said pueblo, and if so, how were said common lands occupied?

Ans. When I first knew the pueblo of San Jose the pueblo lands extended from the Llagas Creek to the north, including from mountain to mountain east and west; on the north the line extends from the Baranco Blanco across to the Santa Cruz Gap at the Los Gatos Creek. The east line of the pueblo commences on the mountain the other side of the Llagas, on the east side of the valley, and runs in a straight line on the mountain to the Baranco Blanco. Afterwards I understood, from the old inhabitants, that the

Guadalupe River up to its sources was made the boundary line, leaving the land on the west side to the mission. The line from the Barranco Blanco runs to the Guadalupe River, near Alviso. From the head of the Guadalupe the line runs in a straight line to a lone hill in the Roble, where there is a monument; from thence to an encino (live-oak) on the side of the Blue Mountain, passing by the paraje of the capitancillos to said tree;
287 from that tree, in a southeast direction, to the Llagas; along the Llagas across the valley to the portezuello, passing by the Aguaje on the mountain on the east side of the valley. All the lands within the limits I have described were the common lands of the pueblo. The said lands were occupied by the cattle and horses of the citizens of the pueblo, and no one having any part of said lands to himself.

Ques. 4. What was the jurisdiction of the alcalde of the pueblo in civil and criminal matters?

Ans. The jurisdiction of the alcalde of said pueblo extended to the San Francisquito Creek; also in the northern direction to Mount Diablo; on the south as far as the Llagas. My statement of the boundaries of the pueblo lands is derived from my own knowledge, and what was generally acknowledged among the oldest inhabitants of said pueblo; and the jurisdiction of the alcaldes was recognized always by the oldest inhabitants to the limits described by me.

his
GERBACIO + CHABOLLA.
mark.

STATE OF CALIFORNIA,
County of Santa Clara, ss:

288 On this twenty-third day of April, A. D. 1858, before me, a notary public in and for said county, personally came Gerbacio Chabolla, who, having been by me duly sworn, upon his oath, said that he has heard the foregoing affidavit read and translated in the Spanish language, and knows the contents thereof, and that the facts therein stated are true to the best of his knowledge and belief.

[SEAL.] In testimony whereof, I have hereunto set my hand and seal this the day and year last before written.

SHERMAN O. HOUGHTON,
Notary Public.

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

Dep. of Guillermo Castro.

289 In the district court of the United States for the northern district of California.

MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE, app'ts,
vs.
THE UNITED STATES.
} Deposition of Guillermo Castro.

STATE OF CALIFORNIA,
Northern District, ss:

Question 1. What is your name, age, and residence?

Ans. Guillermo Castro is my name, my age is 49 years, and I reside in the county of Alameda.

Ques. 2. How long have you resided in California, and how long have you known the pueblo of San Jose?

Ans. I have resided in California all my life. I was born here. Have known the pueblo since I was ten years old.

Ques. 3. Did you ever act in any official capacity in said pueblo. If so, state in what capacity.

Ans. Yes. I was appointed a commissioner to measure the pueblo
290 lands, by the pueblo, with William Gulnack and Salvio Pacheco or Thomas Pacheco; am not certain which of the Pachecos.

Ques. 4. State if you know the boundaries of the pueblo, and whether there were any common lands belonging to said pueblo; and if so how were said common lands occupied?

Ans. I know the boundaries of the lands which were known and recognized as the common lands of the pueblo. I aided in making the lines as commissioner of said pueblo. These lands were occupied by the cattle and horses of the people of the pueblo as by the people as sowing lands.

Ques. 5. State if you know the boundaries of the pueblo lands, and the limits of the common lands of said pueblo.

Ans. The common lands of the pueblo were bounded on the south by the Arroyo de las Llagas, on the north by a line running from a live-oak tree in the chemisal, back of the house of Jose Higuera, and upon the top of the mountain, and running thence to the river Guadalupe and
291 the embarcadero of Alviso; on the west the river Guadalupe, as far as its source, and from thence to a live-oak tree on the side of the mountain, and then along the mountain as far as the Llagas, and bounded on the east by the mountains on the east side of the valley.

Ques. 6. What was the jurisdiction of the prefect, and the jurisdiction of the alcaldes of San Jose in civil and criminal cause?

Ans. Their jurisdiction extended as far as the Arroyo of San Francisquito on the northwest, and on the northeast as far as San Pablo.

Ques. 7. Why or with what object did you and the other commissioners mark these boundaries you have described?

Ans. The pueblo petitioned to have the lands marked, and the government ordered it to be done. The limits I have described, and which were marked by us, were the limits of the lands known and recognized by all the old inhabitants of the pueblo as the common lands of said pueblo.

GUILLERMO CASTRO.

292 STATE OF CALIFORNIA,
County of Santa Clara, ss:

On this 26th day of July, A. D. 1858, personally came before me, a notary public in and for said county, Guillermo Castro, who, having been by me duly sworn, upon his oath, said that the foregoing deposition has been read to him in the Spanish language, and that the facts therein stated are true, and the said Castro subscribed the same in my presence.

[SEAL.] In testimony whereof, I have hereunto set my hand and affixed my official seal this 26th day of July, 1858.

SHERMAN O. HOUGHTON,
Notary Public.

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

293 *Deposition of Jose Fernandez.*

In the district court of the United States for the northern district of California.

MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE, app'ts, *vs.* THE UNITED STATES. } Deposition of Jose Fernandez.

STATE OF CALIFORNIA,
Northern District, ss :

Ques. 1. What is your name, age, and residence?

Ans. My name is Jose Fernandez; my age is fifty-nine, and I reside in the county of Santa Clara, California.

Ques. 2. How long have you resided in California, and how long have you known the pueblo of San Jose?

Ans. I have resided in California forty-one years, and have known the pueblo de San Jose for the said period of forty-one years.

Ques. 3. Did you ever act in any official capacity in said pueblo de San Jose? If so, state in what capacity.

Ans. I have acted as alcalde of said pueblo for several times.

294 Ques. 4. State if you know the boundaries of the pueblo de San Jose, and whether there were any common lands belonging to said pueblo, and how were said lands occupied?

Ans. I know where the monument is above the house of the late Jose Higuera, from thence to the embarcadero of the pueblo, and from thence up the Guadalupe River to the edge of the willow grove of the pueblo to a monument; from thence to a monument on the side of the blue mountain, and from thence to a monument on Llagas, consisting of a tree with several cuts of an axe. From this tree I always understood that the line ran across the valley to the mountains on the east of the valley, and from thence to the place of beginning, near Higuera's house. All the lands embraced in the foregoing boundaries belonged to the pueblo as common lands, and were occupied in common by the inhabitants of said pueblo, excepting the town lots in said town of San Jose. Any person desiring to cultivate any of said common lands applied to the alcalde for a permit to cultivate the same, and also applied for permission to graze

295 cattle or horses thereon.

Ques. 5. What was the jurisdiction of the alcalde of the pueblo of San Jose in civil and criminal cases?

Ans. The jurisdiction of the alcalde extended to San Francisquito on the west of the bay, and to the Llagas on the south, Mount Diablo on the north, including all that section of country to the San Joaquin. At a later period the jurisdiction of the alcalde was limited by the appointment of Ignacio Peralta, of Contra Costa, who exercised jurisdiction to the Arroyo de Alameda, and the jurisdiction of the alcalde of the pueblo was then limited to said arroyo on the east of said bay.

JOSE FERNANDEZ.

STATE OF CALIFORNIA,
County of Santa Clara, ss:

On this 29th day of July, A. D. 1858, personally came before me, a notary public in and for said county, Jose Fernandez, who, having been by me duly sworn, upon his oath, said that the foregoing deposition has been read and

translated to him in the Spanish language; that he knows the con
296 tents thereof, and that the facts therein stated are true, and the said Fernandez signed the same in my presence.

[SEAL.] In testimony whereof, I have hereunto set my hand and affixed my official seal this the day and year above mentioned.

S. O. HOUGHTON,
Notary Public.

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

Affidavit of Justo Larios.

STATE OF CALIFORNIA,
County of Santa Clara, ss:

I, Justo Larios, do solemnly swear that I am fifty years of age; that I reside in the county of Santa Clara, in the State of California; that I was born in said county, and have resided therein since my birth, and I know the boundaries of the pueblo lands of the pueblo de San Jose, which pueblo is in said county; that one of the said boundary lines commences at an oak tree on the west side of the mountain, which oak tree stands a short dis-
tance above the place called La Calera, back of or in an easterly di-
297 rection from the house of Valentin Higuera, and runs thence to the embarcadero of Alviso, and thence following up the course of the river Guadalupe to a monument near the house of Joaquin Narvaiz, thence running in a southwest direction to a live-oak tree on the east side of the coast range of mountains above the Guadalupe quicksilver mine, and from thence to an oak tree marked with eight marks near the Arroyo de las Llagas, and near the stage-road running from San Jose to San Juan, from thence crossing the valley in an easterly direction to the mountains; but I do not know the precise point where the line strikes the mountain on the east side of the valley, and I do not know the location of the eastern boundary line of said land. I know that the territorial jurisdiction of the alcaldes of said pueblo extended on one side as far as the San Francisquito Creek, and on the south as far as Las Llagas, but I do not know how far it extended on the north. I do not know whether the jurisdiction of the alcaldes
of said pueblo extended beyond the lines I have described as being
298 the boundary lines of lands of the pueblo of San Jose, except on the northwest side of said pueblo, and on that side their jurisdiction extended as far as the San Francisquito Creek.

his
JUSTO ⋈ LARIOS.
mark.

[SEAL.] Subscribed and sworn to before me this twentieth day of January, A. D. 1858.

SHERMAN O. HOUGHTON,
Notary Public.

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

Affidavit of Antonio Maria Pico.

In the district court of the United States for the northern district of California.

MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE, app'ts, *vs.* THE UNITED STATES. } Deposition of Antonio Maria Pico.

STATE OF CALIFORNIA,
Northern District, ss:

299 Question 1st. What is your name, age, and residence?

Ans. Antonio Maria Pico, I am forty-nine years of age, my residence is the city of San Jose.

Ques. 2. How long have you resided in California, and how long have you known the pueblo of San Jose?

Ans. I was born in California. I have known the pueblo of San Jose since I was fifteen years of age. I came first to the pueblo at that age with my father.

Ques. 3. Did you ever act in any official capacity in said pueblo? and if so, state in what capacity.

Ans. In the year 1835 I was alcalde of the pueblo of San Jose for one year; after that I held the office of sindico, after that I was second alcalde, (Salvio Pacheco being first alcalde;) again, in the year 1844, I was first alcalde up to the end of 1845. In the early part of the year 1849 I was alcalde together with K. H. Dimmick; then I succeeded to the office of prefect of said pueblo, which office I held until the change of the govern-

300 ment into the hands of the Americans.

Ques. 4. State if you know the boundaries of said pueblo, and whether there were any common lands belonging to said pueblo; and if so, how were said common lands occupied?

Ans. I know the boundaries of said pueblo, and there were common lands belonging to said pueblo; the common lands were occupied by cattle, horses, and also a portion in cultivation. The cattle and horses were owned by the founders of the pueblo, and those who came afterwards to settle in the pueblo.

Ques. 5. State what were the boundaries of said pueblo, and the limits of the common lands.

Ans. The arroyo of the Los Llagas on the south; on the north there is a monument of stone around a live-oak tree, which tree is situated on a little hill in the mountain back of the rancho of Jose Higuera; from that point the line runs to the Guadalupe River, near the town of Alviso; from

301 thence up the Guadalupe River passing to the mill on said river, known formerly as Sansevaine's mill, lately occupied by Mr. Basshum, continuing to follow said river to the headwaters of the same, where there is a monument; thence the line goes in a strait line to (the ensino) or live-oak tree which stands on the side of the Blue Mountain; from thence the line runs along the mountain in a southerly direction to the Llagas, (being the point spoken of before by me as being on the south,) to a place pointed out to me by the persons who measured the pueblo lands as being a monument on the headwaters of the Llagas. William Castro, Isadore Cibrian, Salvio Pacheco, Francisco Garcia, and the deceased William Gulnac, and many others have pointed the same out to me. From the Llagas the line goes to the top of the mountain on the east side of the valley; thence north along the mountain in a straight line to the monument spoken of as being situated back of the ranch of Higuera.

Ques. 6. What was the jurisdiction of the perfect and the jurisdiction of the alcade of said pueblo in civil and criminal matters?

302 Ans. When I was alcalde and prefect I exercised jurisdiction as far as Mount Diablo on the north, on the west to the San Francisquito Creek, on the east to the San Joaquin, and on the south to the Llagas; these were well known at the jurisdiction of the alcalde. In ancient times the alcaldes exercised jurisdiction below the Pulyas ranch, but afterwards a dispute arose, and the boundary was settled at San Francisquito Creek by the official authorities of the territory.

ANTONIO MA. PICO.

STATE OF CALIFORNIA,
County of Santa Clara, ss:

On this twenty-third day of April, A. D. 1858, personally came before me, a notary public, in and for said county, Antonio Maria Pico, and having been by me duly sworn, said that he has heard the foregoing affidavit read and translated in the Spanish language, and knows the contents

303 thereof, and that the facts therein stated are true to the best of his knowledge and belief.

[SEAL.] In testimony whereof, I have hereunto set my hand and affixed my official seal this the day and year last above written.

SHERMAN O. HOUGHTON,
Notary Public.

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

Deposition of Justo Larios.

District court of the United States for the northern district of California.

MAYOR AND COMMON COUNCIL of the city of San Jose, app'ts *vs.* THE UNITED STATES. } Deposition of Justo Larios.

STATE OF CALIFORNIA,
Northern District, ss:

Ques. 1. What is you name, age, and residence?

Ans. My name is Justo Larios, am 50 years of age, and reside in the city of San Jose.

304 Ques. 2. How long have you resided in California, and how long have you known the pueblo of San Jose?

Ans. I was born in the pueblo of San Jose, and have resided in California since my birth.

Ques. 3. State if you know the boundaries of said pueblo, and whether there were any common lands belonging to said pueblo; and if so, how were said common lands occupied?

Ans. I know the boundaries of the common lands of the pueblo de San Jose; they are bounded on the north by a line running from a tree on the mountain back of the house of Higuera, at the place called La Laguna and the river Guadalupe, at the embarcadero of Alviso, and thence following the river upwards to its head on the rancho of Narvaiz, and from there to a monument of stones on a low hill in the Roblar, and from thence to a live-oak tree on the side of the seirra Azul beyond the Almaden Mine, and from

thence to marked tree on the Arroyo de las Llagas, and from thence
305 crossing the valley to the mountains on the east side of the valley. I do not know where the eastern boundary line runs. The common lands I have spoken of were occupied in pasturing the cattle and horses of the people living in the pueblo. Formerly there were no ranchos on this land; it was used by the people of the pueblo only.

Ques. 4. What was the jurisdiction of the prefect and the jurisdiction of the alcalde of said pueblo in civil and criminal matters?

Ans. The jurisdiction of the alcalde extended to the Arroyo of San Francisquito, and on the south to the Arroyo de las Llagas; the other extent of the jurisdiction I do not know. In other directions towards the San Joaquin, I cannot tell how far it went, because there were no people living in that direction.

Ques. 5. State if you know who claimed the ownership of the lands you have described, and if you know, state your means of knowledge.

306 Ans. The lands I have described were claimed by the people of the pueblo as belonging to the pueblo; every one acknowledge that they belonged to the pueblo; since my earliest recollection they have been recognized by every one as the lands of the said pueblo.

his
JUSTO + LARIOS.
mark.

STATE OF CALIFORNIA,
County of Santa Clara, ss:

On this twenty-sixth day of April, A. D. 1858, personally came before me, a notary public in and for said county, Justo Larios, who, having been by me duly sworn, said that he has heard the foregoing affidavit read and translated in the Spanish language, and knows the contents thereof, and that the facts therein stated are true to the best of his knowledge and belief.

[SEAL.] In testimony whereof, I have hereunto set my hand and affixed my official seal, this the day and year last above written.

SHERMAN O. HOUGHTON,
Notary Public.

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

In the district court of the United States for the northern district of California.

Deposition of J. W. Weeks.

MAYOR AND COMMON COUNCIL of the city of San Jose, app'ts, *vs.* THE UNITED STATES. } Deposition of James W. Weeks.

STATE OF CALIFORNIA,
Northern District, ss:

Ques. 1. What is your name, age, and residence?

Ans. James W. Weeks, aged about 45 years, and reside on the ——— in Santa Clara County.

Ques. 2. How long have you resided in California, and how long have you known the pueblo of San Jose?

Ans. I have resided in California since the year 1831. I first knew the pueblo of San Jose in 1832, and have resided in said pueblo nearly the whole of that time.

Ques. 3. Did you ever act in any official capacity in said pueblo? and if so, state in what capacity, and the boundaries of said pueblo.

307 Ans. I have acted as alcalde and filled other offices in said pueblo. I know the boundaries of said pueblo from general report and from deceased, William Gulnac, and William Castro and Salvio Pacheco. The boundaries of said pueblo were pointed out to me by said Castro, Pacheco, and deceased Gulnac, and others, and was from a point on side hill (on east side of the valley) near Higuera's house, along the mountain in a south direction opposite the Llagas; from thence across the valley to the Coast range of mountains to a point, and from thence to a live-oak tree on the side of said Coast range of mountains; and from thence to a hill of stones at the head of the Guadalupe, and from thence to the embarcadero; and from thence across the valley to the point near Higuera's house. My information of said boundaries was mostly derived from William Gulnac, deceased, and were generally understood by the citizens of said pueblo to be the same.

Ques. 4. State whether there were any common lands belonging to said pueblo; and if so, how were said common lands occupied?

309 Ans. The lands within the limits described were held in common for grazing cattle and horses, upon, and for agricultural purposes, by said citizens of the pueblo, with the exception of the farms granted by the government

Ques. 5. What was the jurisdiction of the alcalde in civil and criminal matters?

Ans. The time I acted as alcalde the jurisdiction of the alcalde was from San Mateo to the Llagas, and from thence to the San Joaquin, and crosses the bay opposite San Mateo.

JAMES W. WEEKS.

STATE OF CALIFORNIA,
County of Santa Clara, ss:

On this 26th day of April, A. D. 1858, personally came before me, a notary public in and for said county, James W. Weeks, who, having been by me duly sworn, upon his oath, said that he had heard the foregoing affidavit read over, and knows the contents thereof, and that the facts therein stated are true to the best of his knowledge and belief.

In testimony whereof, I have hereunto set my hand and affixed my
310 [SEAL.] official seal this 26th day of April, 1858.

SHERMAN O. HOUGHTON,
Notary Public.

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

Deposition of Maximo Martinez.

STATE OF CALIFORNIA,
County of Santa Clara, ss:

Maximo Martinez, being duly sworn, says that he was born in the presidio de San Francisco, in the year A. D. 1791; that he has resided in Upper California all his life, and most of the time in the pueblo de San Jose; that the common lands belonging to said pueblo as such are within the following

boundaries: by a line running from the embarcadero of Alviso up the Guadalupe River to the headwaters thereof, where there was placed a pile of stones as a mark; thence to the boca del canon de los Capitancillos; thence southward to a tree on the mountain, near the Almaden Mines; thence southerly to the Las Llagas; thence eastward to the ridge of the mountains on the east side of the valley; on the north, by a line from said Alviso,
311 to the ridge of said mountains east of the pueblo, and on the east by the ridge of said mountains; that the jurisdiction of the alcaldes of the said pueblo was granted; that the said alcalde's jurisdiction extended on the northwest to the arroyo de San Francisquito; that the said land described above are the lands belonging to the pueblo as the common lands, and was not considered merely as the jurisdictional lines of the pueblo officers acting judicially, or in the capacity of alcaldies.

his
MAXIMO ⋈ MARTINEZ.
mark.

Subscribed and sworn to before me this 28th day of December.

[SEAL.] SHERMAN O. HOUGHTON,
Notary Public.

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

312 *Affidavit of Juan C. Galindo.*

In the district court of the United States for the northern district of California.

MAYOR AND COMMON COUNCIL of the city of San Jose, appl'ts. *vs.* THE UNITED STATES. } Deposition of Juan C. Galindo.

STATE OF CALIFORNIA,
Northern District, ss:

Qustion 1st. What is your name, age, and residence?

Ans. My name is Juan Crisostome Galindo; my age is seventy-five years; I reside near the town of Santa Clara.

Ques. 2. How long have you resided in California? And how long have you known the pueblo of San Jose?

Ans. I was born in California, and have known the pueblo of San Jose about seventy years

Ques. 3d. State if you know whether there were any common lands belonging to said pueblo; and if there were, how were they occupied? and what were the boundaries of the common lands of said pueblo?

313 Ans. There were common lands belonging to said pueblo; they were occupied in pasturing the cattle and horses of the inhabitants of the pueblo. The lands of the pueblo were bounded by a line running from an oak tree on the mountain back of the rancho of Higuera to the embarcadero of Alviso, which forms the northern boundary, and then along up the river Guadalupe to its source, which river separates the pueblo lands from the lands of the mission of Santa Clara, and from there to a monument of stones on a low hill in the Roblar, and from thence to a tree on the side of the sierra Azul, and from thence to the Arroyo de Las Llagas, and thence crossing the valley to the mountains on the east side of the valley, and then

following the mountains to the tree on the mountain first spoken of by me. Formerly there were no ranchos within the limits I have described, and no one occupied any of the land exclusively; it was occupied by all the people of the pueblo in common; rodeos of the rattle were made at fixed times under the directions of the alcalde of the pueblo, at which rodeos any person
314 desiring to kill any cattle were compelled to attend, and separate them from the rodeo, and no one was permitted to catch or kill any cattle at any other time than at such rodeos. During the continuance of the government of the king of Spain, a great many years ago, some engineers came from Mexico, and marked the boundaries which I have described; I myself saw them marking the lines; they came to mark the lines because there was a dispute about the line by the priests of Santa Clara and the people of the pueblo. The people of the pueblo have always, since my first recollection, claimed that the lands I have described belonged to the pueblo, and they were always recognized as the lands of the town.

Ques. 4. What was the territorial extent of the jurisdiction of the alcaldes of the pueblo of San Jose in civil and criminal matters?

Ans. The jurisdiction of the alcalde extended as far as the Arroyo of San Francisquito, and included the mission of San Jose, and also the mission of Santa Clara. The other boundaries or limits of his jurisdiction I do
315 not know.

JUAN CRISOSTOMO his ✕ mark. GALINDO.

STATE OF CALIFORNIA,
County of Santa Clara, ss:

On this 27th day of April, A. D. 1858, before me, a notary public in and for said county, personally came Juan Crisostomo Galindo, and subscribed the foregoing instrument of writing; and, having been by me duly sworn, upon his oath, said he had heard the same read and translated in the Spanish language; that he knows the contents thereof, and that the facts therein stated are true to the best of his knowledge and belief.

In testimony whereof, I have hereunto set my hand and affixed my official seal the day and year above written.

[SEAL.]

SHERMAN O. HOUGHTON,
Notary Public.

Endorsed: Filed June 20, 1859.

W. H. CHEVERS, *Clerk.*

317 *Early history from archives, (filed by claimants.)*

Por el Padre Guardian del coligio de Sr Fernando de esta corte se me ha hecho una sircunstaciada representacion Tre, los perguicios que experimenta la mision de Santa Clara de la inme diacion en que se fundo el pueblo de San Jose de Gualupe no obstante los recursos y protestas que refiere haber echo; suplicandome en su virtua que yo ponga el remedio comben te a evitar los danos de que se queja.

Ha parecidome fundada y atendille por todos respectos y en esto concepto incluyo a V. S. copia de ella previniendole que con la brebe dad pocille proseda al reconocimto de la cituacion, limites, inconventes y perjuicios que se refieren, yor si mismo si fuere necesario, y con copia de los recemsos, quejas y protestas que consten enel Archivo de ese Golbierno, y se indican, me imforme detenida y prolijamte enanto se le ofresca y paresca, Dios guarde a V. S. muchos anos.

Mexico, 7 de Agosto de 1798.

ARANZAS,
V. Governador de Californias.

Exmo. Senor: La mission de Santa Clara de la nueva California, se fundo en el principio del ano de 1777, en lss vegas del Rio de Guadalupe, a distancia de una legua de su origen, en la banda del Poniente, con'—forme al dictamen del Ex'o Feniente Coronel D. Juan de Anza y ordenes del Gobierno de la provincia de Californias, y esta citnada en la cabeza o remate del Brazo, de mar bue corre al S. E. desde el Puerto de San Francisco de
318 que dista 14 legnas al ano de establecida dicha mission, trato el E'o Governador de la provincia D. Felipe Neve fundar un pueblo de jente de razon, con el titulo de San Jose, en los inmediacionos de dicho Reio; pero conociendo que precisamente, havia de ser condetrimto de la mission p'a que no fuese tanto el danto, dio orden al Feniente Coman a'te del Presido de San Franco D. Jose Moraga que lo noicase en la mayor dista posible de la mission y alos R. R. Mintros y Fundadores escrivio dicho Senor Governador fuplicandoles se sirviesen admitir aquellos Pobladores p'r Feligreses y desenzors suyos y de su mission, y que en mauera algana pergudicaria aquel pueblo en lo mas minimo a la mission.

El Ex'o Femente hareciendole sin duda quo hacia algun obsequio al Senor Gover'or coloco el pueblo a la vanda opuesta a tres cuartos de Legua de las casas de la mission, diciendo que tenia orden superior para hacerlo. A pocos meses sulio el mismo Senor Gov'er a vicitar al Presidio, misiones, y pueblo, y claramente dijo que le havia enganado el Fen'te y que la orden que havia dado era unicamente de hacer unas barrancas p'a pasar las Aquas y no de fabrisar casas y lavorear siembras y prometio, a los dichos P. P. Min'tros que se mudaria el pueblo a mayor distancia y daria provid'as oportunas para evitar qualquiera dauo en lo espiritual y temporal. En todo el trimpo que se mantuvo en el Gobierno dicho Senor Neve in se tratro
319 de dar a los Pobladores posecion de tierras ni de senalar limites ni fijar mojoneras ni dichos Pobladores tubieron ganado alg'no en la Banda de la mision.

An el ano de 1782. Havien do to ma do posecion del Gobierno Dn Pedro taxes se presente en la mision de Santa Clara, diciendo que iba a poner linderos entre mision y pueblo para dar en nombre del rey la la posecion de terras a sus verionos vito a los P. P. mintros de la mision a que asistieran a la operacion de medidas como que administraban las temporalidades de los Indios. Los P. P protestaron verbalm'te (conforme a la citacion de palabra) la injvsticia y contravencion a las leyes y or denansas R's pero el eo Gov'or Sin atender a la razon y de rechos de los Indios procedio a efectnar las medidas y poner mojoneras, Estando en esta operacion le embiaron los P. P. ministros una protesta en escrita que hicieron a nombre de los yndios neopitos; y no haien dose su senoria dignado de recivirlo la pasaron a manos del R. P. Fr Junipero Serra presa'te de las misiones, suplican dole hiciera de ella uso que jusgase. S. R. conveniente el B. P. presid'te paso a ver al governa dor y le rogo se dignase poner qualq'a proveydo, aungue fuese el mas negro, a continuacion de a quel escrito que le remitian los P. P. ministros de Santa Clara pues pedian justisimam'te ser oidos, la respresta del Eo. gover'or fue tan breve y sucinta como estas; yo me guardare de esos. Si los P. P. quieren recurrir, ala superioridad que lo hagan,
320 Buen consuelo para unos pobres religiosos en aquellos retiros y remotos paires.

Desde este tipo se comenzaron a sentir, los perjuicios de los pobla dores y sus ganados, en tanto grado que se jactaban de que el dar sentimientos a los Padres misioneros, era el mayor obsequio para el Senor Gove'or quien legos de oir las quejas repetidos de los P. P. sobre los escandalos que se daban a la gentilidad y mal ejen plo alos Neofiitos que sabian y verian las tor pezas y violoncias que usalan con sus mugeres, dichos popladores, a mas de los danos que causaban en sus siembras y bienes, famas quizo dar equellas providas opertunas para contener ni los desor denes ni danos.

El ano de 1776 que se retiro de aquellas missiones el B. P. Fr. Frans'co Palon, vino con poder y encargo de los ministros de Santa Clara para pedir jesticia en esta snp'or gov'no con copia de la protesta y resp'ta del B. P. Presidente sobre lo que havia pas ado con el Senor Gove'or Presentose dicho Palon ante el Verre conde de galvez y asi S. E. como el Ex'o fiscal le prometieron que se pondria pronto vernedio en todo. El dicho Senor Fiscal dijo al Sitado P. Palon qpe se dala orn estrechisima al gove'or para que celase sobre la conducta de los pobla dores y estigase severamente sus exesos y escan doles y per lo convern'te a los danos y per qucios temporales a la mision mandaria qnitar las mojoneres que havia peesto el E'o Governrdor Taxes, y que sisvlese de lindero el mismo rio que corne entre la mision y el pueblo y con esta provid'a se evitarian, no solo danos en las siembras,
321 simo tambin el que nesesariamente se sique de mesclarde ganados de una y otra parte. Pero la grave emfermedad, y sucesiva muerte que sobrevino u ese tiempo del exmo. Senor Conde de Galzez, y paco despues del P. Palon que egitava este negocio fue causa de que quedacen sin efecto dichas provid'as que me hago cargo constaran en la secretaria de govierno, como que sobre ello se instruyo expediente en el tpo que governo la provincia el difunto Senor D. Jose, Antonio Romen, y despues interinam'te. D. Sose Joaquin de Arellaga, ni la mision reconocida tales linderos, ni los pobladores impidieron que la mision alargase sus sercados en terreno que seg'n las mogoneras puestas por D. Aedro Fages, pertenecia a dicho pueblo Praeba vue ternian dichos vecinos no havian de admitir dichos governadores su instancia o pretencion, como tan eviden tem'te injusta y opuesta al derecho de los Indios. En el presente gov'no como que an palpado la facilidad y expotigues conque se an dado tierras a gente de razon para ranchos y Sienbras con not avilisimo perjuisio de las misiones, pretenden los vecinos de dicho pueblo de San Jose ocupar no solo las tierres de la canda del rio en que esta cituado sino tambian las que estan a la parte de la mision y ann aquellas que ya muchos anos han laboreado, y sembrado los Yndios alegando dicho vicinos el derecho que disen haberles da do el E'o Gove'or Fages cuando el ano de 62, les dio prosecion y fijo mojoneras sin atender a la
322 protesta que de parte de los Yndios se hiso con evidentes razones y leyes que prohiven y hanelas y hanelas semejantes adjudicasiones y poseciones usur padas y despojando a los pobres Yndios de las que dios y nuestros sobera les han dado.

En atencion a todo lo expte que es la pura ver dad como se hara ver si V. E. gove'or de California que no permita a dichos vecinos del pueblo de San Jose molestar a los Yndios y ministro misioneros de Santa Clarr, y para que esto se conciguise con alg'a permanesencia y solizdez serra conven'te que V. E. si es posible y justo senolara por limeies entre la mision y pueblo dichos y el mismo rio intermedio de Guadalupe como lo penso el E'e Fiscal de B'l Hacienda D. Vicente Posadas, pues asi se evitaria el continuo digusto por causa de las siembras y de la mescla de ganados con otros muchos inconvenientes a mas de que asi dividido el terreno, le vueda al pueblo de San Jose muy sobrado para todo en los espaciosos hanos que hay para tres rumlos y la mision se compondra con lo que queda asu canda aunque menos y de inferior caladad.

Dios ntro Senor que a V. E. un a colegio a postolico de San Fernando 27 de Julio de 1796 exmo. Senor B. L. M. de V. E. su mas atento humilde servidor,

FR. TOMAS DE LA PENA.

Exmo. Senor Virrey D. Miguel, Jose D. Aranza.

Es copia. Mexico 8 de Agosto de 1798.

ALEGRIA.

323 No. 603.

4 de Sept're.

Exmo Senor: Paso amanas de V. E el exped'te formado sovre limits entre en pueblo de San Jose y mision de Santa Clara afin de que en su vista se sirvr dictar la probid'd que estime justa en inteligencia de que en la defenza que hacen los ministros de aquella exageran mucho el num'o de gentiles que aun puenden recoser pues amas de no aver tantos en sus inmediaciones estan proximas las misiones de San Jose y San Juan a donde es muy regular vaya muncha parte como se va verificando.

No. 643.

Dici're 3, '98.

Exmo Senor: Ovedeciendo la sup'r orden de V. E. de 7 de Agosto que recibi el 28 ee Nov're ant'or espondre cuanto comprenda acerca de los perpicios qne el M. P'r P. guardian del coloquio de San Fernando de esa capital reyrecenta originales alos neofitos de la mision de Santa Clara con motivo de averse fundado en sus sercanias el ano de 33, el pueblo de Espanoles nombrado San Jose.

Sobre los parsges ocurrido quando se hizo el establesimiento entre los R. S'r P. P. ministros de la mision su difunto presidente el B'r P. F'r Junipero sera y misantse sores los Senores D'n Felipe de Neve y D. Pedro Fages nada puedo exponer y lo mismo sucede con lo que el Senor Exma Conde de Galvez y Sdnor Fiscal R'o Haga, prometieron al Senor P F'r Frauco Palan cuando promotio este asunto en esa capital.

Hasta el tiempo de mi gobierno parese nose toco el punto de linderos, no lo estrano por que siendo los recinos unos pobres miserables poco les
324 importrba el que la mision propasase los sugos ciempre que ellos tuvieran en corviente sus suretes de tierra, Hego el caso de repartir otras a varios ymbalidos y soldados lisenciados como dispone S. M. en el reglanto de la peninsula y aun de beneficias algun canamo por via de ensayo y entonses fue preciso que yo tomase la mano para a qve no les faltase de las que correspondian al pueblo segon los limites y mogoner as senalada en su creacion no haviendo dispocecion en contrario antes bien existe una de la comand'ca Gral que bajo il No. 1 incluyo a V. E. en que parese se confirmo el lindera de la fundacion. Los pasages ocorridos con este motivo constrn en la carpeta que incluyo a V. E. con diez documentos del No. 1 al 10.

Para proceder yo con acierto solicito de la bondad de V. E. su fecha 4 de Sept're ulto cajo el No 603 se serviese declara dhos limites en vista del exped'te que pase anos sup'res manos instruido en los mejores ter mimos que fue posible Como tengo a la vista el croquis del terreno que media entre la mision y ~~pueblo~~ y lo he reconocido personalmente, me parece que por ahora no es necessario el que me transfiera a el pero si luego que V. E. si digne avisarme su resolucion para ponerla en practica y de una vez cortar todos los motivos de disenciones que ha habido hasta ahora.

Opino con el M. R. P. Guardian por que se senale por limites el
325 rio respecto a que quedan al pueblo muchas y buenas tierras de viego para puedan beneficiar con aumento de la poblacion, pero dejandole parte de la sierra que esta hacia la costa para que se provea de maderas y lena. Si asi asi se le determinase, se daran suretes di tierra en esta banda del rio a tres a cuatro vecinos que las tienen en la otra como que se han considerado pertenicerles, segun las mejonera antigfia.

Habiendo reconocido el archivo no he hallado documento, ni representacion de las misioneros alusive al asunto y para que la superioridad de V. E. se pueda instruir de la ynstr'en que gobierna a aquel comisionado la paso original a sus manos con el No. 2.

A todo los R. R. P. P. misioneros consta la firmesa con que contengo anales cualquiera clase de desordenes nue uegan a mi noticia, y los castigos proporcionados que aplico alor que lor cometen. Si hay algunos son proyior de la flageza humana y como no puedo estar en todas partes es imposible evitarlos.

En vista de todo lo espuesto la bondad de V. E. se servira resolver lo major.

No. 665.

MONTEREY, 17 *de Ereno*, 1799.

326 EXMO SOR: Reconocieado nueramente el archivo por si hallaba algun documento alusion a los linderos de la mision de S'ta Clara, y pueblo de San Josef, en la lectura de la ynstruccion reservada que el difunto Gov'or Don Felipe Neve dis a su sucesor Don Pedro Fages halle haber declarado el primero en el articulo 11, los uerdaderos limetos que se debian observar en el refrido establecimiento. Paso lo certificado a mosios de V. E. por si gustare hacer uso ke esta noticia sin que por ella varie yo de opinion sobre que se declare ser rio la guarda vaya ; dejando el pueblo parte de la sierra del Poniente o costa para que se pueda provur de maderas por que asi se cortara a la raiz de los disturbios.

Y a fin de evitar todo inconveniente que pueda subritarse por la mision de S'ta Clara en puerto a terminor de ellas y el pueblo declaro como anteriormente lo tengo hecho que la guardaraya o lindero que divide los dos terminos de oeste a pornente er la mediacion del terreno que intermedia entre las dos poblaciones correspondiendo a la mision la parte del Norte y al pueblo La del Sur donde pueden poner desde luego mojonera.

C. D. JOSE DE LA GUERRA.
·· JOSE JOAQ'N DE ARILLAGA.

327 En officio di 31 de Julio ultimo me comunica el capitan Graduado Don Joseph Arguello haber concluido la division de limites entre el pueblo de San Joseph y mision de Sta Clara a que feie comisionada por vm y quedo con il cindado de dirijir a las justicias de dicho pueblo las ordenes convenientes para evitar disturbios entre el vecindario y naturales de aquello mision. De suerte que si el vecindario advierte algunos danos en sus terrenos por dichos yndios lo comuniques a los R'e P's y representen a mi sus quejas sin tomarse por si la demanda.

Lo que aviso o von para su debido conocimiento.

Nro Lor g'de la vida de V. M's, a's Monterey, 1 de Agosto de 1810.

RAIMUNDO CARRILLO.

Sor. Gob'r DN. JOSEPH JOAQUIN DE ARRILLAGA.

Con el officio de V. 3 du Julio he recibido la carta del comisionada del pueblo y las copias que este incluye y por ellas veo la permision que dio el difunto e governador or opara situarse en il oparage de la calera a
328 Josie M'a Lerios p Ballesteras con sus familias y el por haber vendiar una cosa que no era suya mas que en el uso a la mision de San Joseph y en consciencia ha providenciado V. se suspenda la entrega a dicha mision interin el gobierno no determina otra cosa lo cual me ha parecido muy bien.

Ha ocurrido sobre el mismo asunto el pre mintro di dicha mision y por la adjunta copia uara lo que le contesto.

Larios in pudo in debio vender seme jante Paraje y mas *inconsulto* del gab'no las tierras que se mersem an o oprestan oprestan, sus duenor no tienen derecho a vender las ann cuando opaguen el reconocimiento a! Supremo Domino asi esta mandado y cuando mando el gobernar or difunto al

comisionado del pueblo la entrega a larios y ballesteros no reconocio ser de la mision dicho sitio.

Por lo que y por cuanto lorios ha procedido de mala fe le inpondra V el castigo que le parozca y me avisa de ello puss ha dado margen a la mision y al pueblo para que ambos presenten sus demandas agregandose haber vendido el sitio que no era suyo en propriedad sirio en el uso.

Dios q'l ar'd m's a's San Xavier 16 de Agosto de 1803.

C. D. JOSE DE LA GUERRA.
JOSE JOAQ'N DE ARILLAGA.

(Copia.)

MUY SOR. MIO: En respuesta a la apreciable de W. V. en que me noticia la cesion que ha hechs Jose Ma. Larias de su rancho volunt ariamente a esa mision del cargo de V. P. la que le recompensa la fabrica de la casa, debo espresar a V. P. que por ahora de ningem modo puedo aprobar semejante cesion o lo que fuere, pues Larias no debio enagenar el sitio sin conocimiento del gobierno y amas de que el comisionado del pueblo y alcaldes solicitan el mismo sitio por lo que no puedo occeder a lo que V. P. pretende, pues el dicho sitio me persuado a reconocido al pueblo hasta ahora sin contradiccion. Agradecido de las atentas expreciones con que me favorece respetare a V. P. mis deseo de complacerte y segun de esta verdad mande cuanto guste a su att'o Serv'er Dios g'e a V'd M's a's San Xavier 19 de Agosto de 1803. Jose Joaquin de Arrillaga. M. R. Mnro. de la Mision de S. Jose.

Es copia. Fhant. supra.

ARRILLAGA.

330 PROFECTURA DEL PRITNER DISTRITO.

Tengo el honor de contestar la nota de V. S's de fecha 16 del que rige en la que ordina S. E. no le sea adjudicado a un solo individuo la Canada de los Capitancillos por ser tierras comunes del pueblo de San Jose dejandolo S. E. al advitrio de esta Prefectura en la parte que le toca en el articulo 77 de la ley de 20 de Marzo de 1837.

Tengo el placer de contestar a V. S'a su indicada nota reiterandole todas las seguridades de mi consideracion y aprecio.

Dios y Libertad, San Juan de Castro 20 de Julio de 1840.

JOSE M'A VILLAS'A.

Senor secretaris del gobierno departmental DN. MANUEL JIMENO CASARIN.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

331 I, J. W. Mandeville, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, as also the papers of the late board of commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify that the sixteen preceding and hereunto annexed pages of written paper, numbered from one to sixteen, inclusive, exhibit a true, full, and correct copy of a portion of said archives as the same appear on file in my office.

[SEAL.] In testimony whereof, I have hereunto signed my name officially, and caused my seal of office to be affixed, at the city of San Francisco, this 30th day of June, 1859.

J. W. MANDEVILLE,
U. S. Surveyor Gen'l for Cal.

Endorsed: Filed July 2d, 1859.

W. H. CHEVERS, *Clerk*

333 *Translation of early history, &c.*

(Communication from Viceroy to gov'r of California.)

"A representation has been made to me by the guardian of the college of San Fernando, in relation to the prejudices suffered by the mission of S'ta Clara, by reason of the pueblo of S'n Jose having been established so near said mission, notwithstanding the protests which had been made against the same, praying me, in consideration of the same, to interpose the proper measures to remedy the wrongs complained of. The complaint appears to me to be well founded in all respects. I therefore transmit a copy of the same to you, requiring you at your earliest possible convenience to proceed to the examination of the situation, boundaries, inconveniences, and prejudices referred to, making the examination in person if it should be necessary, transmitting me copies of the complaints and protests which may be on file in the archives of your government, and giving me all the information that may appear in relation to the matter.

God preserve you many years. Mexico, August 7th, 1798.

ARCENZA.

334 *Copy of representation of guard'n S'n Fernando.*

To the governor of California:

MOST EXCELLENT SENOR: The mission of Santa Clara, in New California, was founded in the beginning of the year 1777, on the plain of the river Guadalupe at the distance of one league from its source on the west side of the same, in accordance with the instructions of Lieutenant Colonel Don Juan de Auza and the orders of the governor of the province of the Californias, the same being situated at the head or termination of the arm of the sea which runs southeast from the port of San Francisco, from which place it is distant fourteen leagues. In the year in which said mission was established, Don Felipe de Neve, then governor of the province, determined to establish a pueblo of *"gente de razon,"* named San Jose, in the vicinity of said river; but knowing that it would be likely to be prejudicial to said mission, and in order to avoid as much as possible this detriment to the mission, he gave orders to Lieutenant Don Jose Moraga, comandante of the presidio of
335 San Fran'co that he should establish said pueblo at the greatest possible distance from the mission, and the said senor governor wrote to the reverend ministers and to the settlers requesting them to permit said settlement for the defence of themselves and their mission, and that the same would be of little detriment to the mission.

The senor lieutenant, without doubt, thinking to please the governor, placed the pueblo on the opposite shore, at the distance of three-quarters of a league from the house of the mission, saying that he had superior orders for doing the same. A few months thereafter the governor himself went up to visit the presidios, missions, and pueblo, and when he saw the pueblo he said that the lieutenant had mistaken him, that the orders which he had given were only that some ditches should be made to conduct the water, and not to build houses or cultivate the lands; and he promised the said fathers that the pueblo should be removed to a greater distance, and that he would give the necessary orders to prevent any detriment whatever to the spiritual and temporal interests of the mission. During the whole
336 of the time that said Senor Neve remained in exercise of the government, no attempt was made to give to the settlers possession of lands, to mark out boundaries, nor fix landmarks, neither did said settlers have any flocks on the side of the river next to the mission.

In the year 1782, Don Pedro Fages having taken possession of the government, he presented himself at the mission of Santa Clara, saying that he was going to fix the boundaries of the mission and pueblo, in order, in the name of the king, to give to the settlers permission of lands. He summoned the fathers of the mission in order that they might assist in the measurement inasmuch as they had charge of the temporal concerns of the Indians. The fathers made a verbal protest (they having been summoned verbally) against the proceedings of the governor as unjust and in violation of the laws and royal ordinances; but the governor, regardless of the rights of the Indians, proceeded to execute the measurements and to place landmarks. During the progress of these proceedings the fathers, in the name of the Indians, made a written protest to the governor; but his township not deigning to receive the same, it was forwarded to the rev'd Father Fry
337 Junipero Serra, president of the missions, praying him to make such use of it as he might think best. The rev'd father president went to see the governor, and entreated him to enter some order, although it might be of the blackest character, on the protest made by the fathers of Santa Clara, since they with justice prayed to be heard. The reply of the governor was as brief and concise as this: "I will take care of this; if the fathers wish to appeal to higher powers, let them do it." Good consolation for a few poor missionaries in that retired and remote part of the world!

From this time the mission commenced to suffer from the depredations of the settlers and their flocks to such an extent that giving annoyance to the fathers was considered the best means of pleasing the governor, who, far from listening to the repeated complaints of the fathers in relation to the scandalous treatment of the gentile Indians, and the bad example set to the neofites, who knew and saw the licentious conduct of said settlers towards the women, besides the damage to their fields and property, never (the governor) took any steps to correct said disorders or prevent said damage.

In the year 1786, when the rev'd Father Fr. Fran'co Palou retired
338 from the missions of California, he came empowered by the ministers of the mission of Santa Clara to ask justice from the superior government, bringing with him a copy of the protest and representation of the rev'd father president, in relation to what had passed between him and the governor. Said Father Palou presented himself before the viceroy, El Conde de Galvez, and his excellency, as well as the Senor Fiscal, promised him that all the evils complained of should be speedily remedied. The said Senor Fiscal said to Father Palou, that a most estringent order should be given to the governor to the effect that he should keep a strict watch over the conduct of the settlers, and severely punish their excesses and scandalous conduct, and that, in relation to the prejudices and damages to the temporalities of the mission, he would order the landmarks placed by governor Fages to be removed, and that the river which runs between the mission and the pueblo should be the boundary, and that by this means would be avoided not only the prejudice to the agriculture of the mission, but also that which would necessarily result from the mixing of the herds of the pueblo with those of the mission. But the serious illness and subse-
339 quent death, about this time, of his excellency Senor Conde de Galvez, and a short time afterwards that of Father Palou, who had taken charge of this business, prevented these resolutions from being carried into effect, which orders doubtless appear in the archives of the government, as an expediente was instituted in relation to the matter. At the time that the late Don Jose Antonio Romero was governor of the province, and subsequently, when Don Jose Joaquin de Arrillaga was governor interim, the mission did not recognize such boundaries, nor did the settlers of the pueblo attempt to prevent the mission from making enclosures on lands,

which, according to the landmarks placed by Don Pedro Fages, pertained to said pueblo, which is sufficient proof that said settlers feared that said governors would not admit their pretention to said land, it being so evidently unjust and in opposition to the rights of the Indians.

During the present government, as it is known with what facility lands have been obtained by *gente de razon* for ranchos and sowing grounds, with notable prejudice to the missions, the residents of the pueblo of San Jose claim the right of occupying lands, not only on the side of the river on
340 which the pueblo is situated, but also those on the part belonging to the mission, and even such lands as have for many years been cultivated by the Indians, said residents alleging the right that had been given to them by Governor Fages, when in the year '82 he gave them possession, and placed the landmarks, disregarding the protest that was made on the part of the Indians with just grounds, and the laws that prohibit and annul such adjudications and possessions, usurping and dispoiling the poor Indians of that which God and our sovereigns has given them.

In consideration of all that has been set forth, which is purely the truth, which will be verified if your excellency so order it, I appeal to the notorious pity and justice of your excellency, praying that you may be pleased to order the Governor of California not to permit the said residents of the pueblo of San Jose to molest the ministers, missionaries of Santa Clara; and in order that this evil may be permanently remedied, it would be well, if it is possible in accordance with justice, to designate as the dividing line between the said mission and pueblo the said river Guadalupe, in ac-
341 cordance with the opinion of the Fiscal of Royal Haciendas Don Vicente Posadas, since by this means will be avoided the continual difficulties in relation to the sowing grounds and the mingling of the flocks, together with many other inconveniencies and difficulties; and besides, the land being divided in this way, there will remain to the pueblo of San Jose more than enough for all in the spacious plains which lie in three directions; and the mission will be satisfied with that which remains on its side (of the river) although it is less and of inferior quality.

God our Lord preserve the life of your excellency many years. Apostolical College of San Fernando, July 27, 1798. Kissing the hands of your excellency, I remain your most humble servant,

FR. TOMAS DE LA PENA.

To his excellency the Senor Viceroy, Don Miguel Jose de Maganza.

It is a copy. Mexico, August 8th, 1799.

ALEGRIA.

342 No. 603.

Sept. 4th, 1798.

Most Excellent Senor: I transmit to your excellency the expediente in in relation to the limits between the pueblo of San Jose and the mission of Santa Clara, to the end that, in view of the same, you may be pleased to make such orders as you may deem just, with the understanding that in the representations made by the missionaries of S'ta Clara they have greatly exaggerated the number of unchristianized Indians which they have been able to collect; and, besides, there not being so many Indians in the neighborhood of S'ta Clara, the mission of San Jose and San Juan are near by, at which places many of those Indians are in the habit of attending.

(The above is a record of a communication from Governor Bonco to the viceroy.)

No 643.

December 3d, 1798.

Most Excellent Senor: In obedience to the superior order of your ex.

343 cellency of the 7th of August last, which I received on the 28th of November last, I will explain all that I understand in relation to the prejudices set forth by the rev'd father guardian of the college of San Fernando, as suffered by the neofites of the mission of Santa Clara, by reason of their having been founded in the year '83, in the vicinity of said mission, the pueblo of Spaniards named San Jose.

In relation to what took place upon its establishment, between the Revcrend fathers ministers, the Rev'd Father Fr. Junipero Sevia, and my predecessors, Don Felipe de Neve, and Don Pedro Fages, I can explain nothing, and I have the same remark to make in relation to the promise made by his excellency the senor Conde de Galvez and the sor. Fiscal of Royal Hacienda, to the Rev'd Father Francisco Polon when he presented this matter in the capital.

Up to the time that I took charge of the government it seems that not much attention was paid to boundaries. This is not strange, because the inhabitants of the pueblo being only a few poor devils, it little mattered to them what the mission claimed so long as they had undisturbed possession of their suertes of land; but when it became necessary to distribute
344 other lands to various invalids and , as ordered by his majesty in the regulations for the government of the peninsula, and also for the purpose of making an experiment in the cultivation of hemp, it then became necessary that I should take the matter in hand, in order that the pueblo might have all that belonged to it, in accordance with the boundaries and landmarks designated at the time of the establishment of the same, not finding any contradictory order; on the contrary, there exists one made by the commandante general in which it appears that the boundaries designated at the establishment were confirmed. The proceedings in relation to this matter are contained in the "carpeta" which I forward to your excellency, contain ten documents, numbered from 1 to 10.

In order to proceed with certainty in the matter, I solicited of your excellency, in a communication dated on the 4th of Sept'r last, numbered 603, that you would be pleased, in view of the expediente forwarded to you, to declare said boundaries, the facts in said expediente being set forth as clearly as possible.

As I have before me a sketch of the land lying between the mission and the pueblo, and have examined it personally, I do not think it necessary at this time that I should go upon the ground, but will do so after you are pleased to advise me of your resolution in relation to the matter, for the purpose of putting the same in execution, and at once removing all causes of dissension that have existed up to this time.

I agree with the rev'd father guardian that the river being designated as the boundary, there will remain to the pueblo a large amount of good arable land for its use as the population increases, but leaving to it
345 a part of the sierra, which lies towards the east, for the purpose of supplying the same with timber and firewood. If it should be thus determined there will be given suertes of land on this side of the river (the pueblo side) to three or four residents who have lands on the other side, (mission side,) as they have considered themselves entitled to them in accordance with the ancient landmarks.

Having examined the archives, I have found no document or representation of the missionaries in relation to the matter, and in order that your excellency may be informed in relation to the instructions which governed the commissioner I forward the original to you, numbered 2.

All the rev'nd fathers are aware with what firmness I have restrained every kind of disorder which has reached my notice, and the punishments which have been inflicted upon those committing the same. If there are

some they are attributable to the frailty of humanity, and as I cannot be at all places, it is impossible to avoid them.

In view of all that has been set forth your excellency will be pleased to determine that which is best.

Communication from gov'nr to viceroy.

MONTEREY, *Jan'y 17th*, 1799.

MOST EXCELLENT SENOR: On examining again the archives to see if I could find any document in relation to the boundaries of the mission of Santa Clara and the pueblo of San Jose in the private instructions given by the
346 late governor, Don Felipe de Neve, to his successor, Don Pedro Fayes, I find that the first (Neve) has declared in article 11 the true limits to be observed in the said establishment. I forward a certified copy of the same to you, that you may, if you think proper, make use of it, without, however, changing my opinion that the river should be declared the dividing line, leaving to the pueblo part of the sierra towards the west or coast, for the purpose of supplying the same with timber, for thus will be removed all cause of disturbance.

Extract from private instructions given by Gov. Neve to his successor, Gov. Fa es, referred to in foregoing document.

And for the purpose of avoiding all difficulties that may arise in relation to boundaries between the mission of Santa Clara and the pueblo of San Jose, I declare, as heretofore I have done, that the *guardaraya*, or line dividing the land of the two establishments from east to west, is a line midway between the two settlements, the part on the the north belonging to the mission, and the part on the south pertaining to the pueblo, where landmarks may be placed.

Communication from Raymundo Carillo to Governor Arrillaga, August 1st, 1801.

In an official communication of the 31st of July last past Captain Don Jose Arguello informed me that he had concluded the operations of
347 fixing the limits between the pueblo of San Jose and the mission of Santa Clara, which he was commissioned to do by you, and I will take care to direct to the justices of said pueblo the necessary orders for the prevention of disturbances between the settlers of the pueblo and the Indians of the mission, so that in case the inhabitants of the pueblo should experience any harm to their lands from said Indians they may communicate the same to the reverend fathers and make their complaints to me, without taking upon themselves the correction of the same.

God preserve your life many years.

Monterey, August 1st, 1801.

RAYMUNDO CARRILLO.

To the S'or Governor JOSE JOAQUIN DE ARRILLAGA.

Letter from Governor Arrillaga to Jose de la Guerra.

With your official communication of the 3rd of July I have received the letter of the commissioner of the pueblo and the accompanying copies, by which I see the permission which was given by the late governor to Jose Maria Larios and Balestros to establish themselves with their families in the place of "La Calera;" and that the first (Larios) has sold to the mission of San Jose a third in which he had only the right of use, in consequence of which you have ordered that the delivery of the same to the mission be suspended until the determination of the governor, in which you have acted very properly.

The father minister of said mission has written to me in relation to
348 the same matter, and by the accompanying copy you will see what I have replied to him. Larios had no power or authority to sell such a place, and without consulting the government, the owners of lands that are donated or loaned have no right to sell the same, although they should acknowledge the supreme dominion; thus it is ordered; and when the late governor ordered the commissioner of the pueblo to deliver the said place to Larios and Ballesteros he did not recognize the same as belonging to the mission. For which reason, and because Larios has proceeded in bad faith, you will impose upon him the punishment which may appear just, advising me at the same time, since an opportunity has been given to both the mission and the pueblo to present their claims, adding that Larios having sold a place which was not his in property but only in use.

God preserve your life many years.

San Xaviar, August 16th, 1803.

JOSE JOAQUIN DE ARRILLAGA.

DON JOSE DE LA GUERRA.

Copy of letter to priest referred to in foregoing.

MY DEAR SIR: In reply to your communication in which you advise me at the voluntary cession made by Jose Maria Larios of his rancho to the mission under your charge, he pay for the house he had built, I have to say to your reverence that at this time I can by no means approve said cession, or whatever it may be, since Larios had no right to alienate
349 the place without the knowledge or consent of the government; and besides, the commissioner of the pueblo and the alcaldes solicit the same place, for which reason I cannot acceed to your petition, since I am persuaded that said place up to this time has been recognized without contradiction as pertaining to the pueblo.

Grateful for the kind expressions with which you favor me, I repeat my desires to serve you; and, assured of this truth, you will command your obedient servant

God preserve you many years.

San Xaviar, August 19, 1803.

JOSE JOAQUIN DE ARRILLAGA.

To the REVEREND MINISTER *of the mission of San Jose.*

A copy. ARRILLAGA.

PREFECTURA DEL PRIMER DISTRITO.

I have the honor to reply to your note of the 16th inst., in which you order that there shall not be adjudicated to one individual alone "the Canada de los Capitancillos," the same being common lands of the pueblo of San Jose, leaving it to this prefectura to act in the matter in accordance with article 77 of the law of the 20th of March, 1837.

I have the honor to reply to your said note reiterating the assurance of my esteem and regard.

God and liberty.

San Juan de Castro, July 20th, 1840.

JOSE M'A. VILLAR.

To the Secretary of State, DON MAN'L JIMENO.

351 *Stipulation to admit archive evidence.*

U. S. district court.

THE UNITED STATES
v.
MAYOR, &C., OF SAN JOSE. } No. 419.

SAN FRANCISCO, *Nov.* 1, 1859

It is hereby stipulated and agreed by and between the acting U. S. attorney and the counsel for the claimant, that reference may be had by the court to the following documents in the archives of the former government, now under the charge of the U. S. surveyor general for California, and that certified copies and translations of any or either of them may, at any time before the case is appealed to the Supreme Court, be filed and considered of record in the case, to wit:

1st. Espediente No. 45. Pala rancho, granted to Joaquin Higuera.
2d. Espediente No. 102. Santa Teresa, granted to Agustin Bernal.
3d. Espediente No. 364. San Juan Bautista, granted to Agustin Narvaez.
4th. Vol. 3 Legislative Records, page 334.

TULLY R. WISE,
Acting U. S. Dist. Att'y.
J. B. CROCKETT,
Att'y for claimant.

352 Endorsed: Filed Nov. 4, 1859.

W. H. CHEVERS, *Clerk.*

Order vacating order of 2d December, 1857, and making decree final.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-house, in the city of San Francisco, on Saturday, the 26th day of November, in the year of our Lord one thousand eight hundred and fifty-nine.

Present: The Honorable Ogden Hoffman, district judge.

THE MAYOR AND COMMON COUNCIL CITY SAN JOSE
vs.
THE UNITED STATES. } No. 419.

An order having heretofore been entered in this cause, on the 2d day of December, 1857, setting aside the decree of confirmation rendered in
353 the said cause on the 6th day of August, 1857, in which order it was specified that the claimants might move to set the same aside, and in pursuance of said leave the claimants having, on the 24th day of May, 1858, moved the court to vacate and set aside said order of the 2d December, 1857; and the said motion having been duly argued by counsel and submitted to the court, and the court being now fully advised in the premises, it is ordered, adjudged, and decreed that the aforesaid order entered on the 2d day of December, 1857, setting aside the decree of confirmation and ordering a re-hearing in the said cause be, and the same is hereby, vacated and set aside. And it is further adjudged, ordered, and decreed that the said decree of confirmation entered on the 6th day of August, 1857, stand as valid, and the same is hereby ratified in all things, and shall have the like effect as if the same had not been vacated as hereinbefore recited.

Dated at San Francisco, 26th Nov., 1859.

OGDEN HOFFMAN,
U. S. Dist. Judge.

354 Endorsed: Filed Nov. 26, 1859.

W. H. CHEVERS, *Clerk.*

355 *Archive testimony No.* 1, *filed by U. S. under stipulation of Nov.* 1, 1859.

Espediente promovido en solicitud al parage nombrado por Joaquin Higuera.

45.

Sello tercero. Dos reales.

Habilitado provicion almente por la administracion de la Aduana Maritima de Monterey de la Alta California para los anos de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

CASTRO.
ANGEL RAMIREZ.

MONTEREY, *O'bre* 28, 1835.

S'r Gefe S. Politico El Cindadano Joaq'n Higuera ante V. S. corno mas haya lugar en derecho espone lo siguente q'e hace el termino de trece anos que tubo permiso p'd fabricar casa en el paraje conocido con el nombre de pala como lo acredita la carta que acompano con el objeto de que se me conseda el paraje indicado conforme al diseno q'e adjunto la ley de
356 18 de Agosto, de 1824. Advirtiendo a V. S. quedesde, aquella fha lo he fomentado con laborios y ocupado convienes de campo lo q'e producen mi subsistencia y lade mi crecida familia. Por tanto A. V. S. suplico rendidamente se sirva durme la propiedad del paraje indicado como lo ereo de justicia jurandono ser de malicia y lo necessario.

MONTEREY, *O'bre* 28, *de* 1835.

A ruego del interesado p'r no saber firmar.

J. M'A CORRIO.

MONTEREY, *O'bre* 28, *de* 1835.

Notifiquese al interesado que se presente en la secretaria a prestar ser declaracion sobre quien fue el que es crimbio la carta mencionada si vive y si el S'r D'n Pablo Vicente de Sola es conocia evacuado que sea renutase a los informes que manda el decreto anterior.

JOSE CASTRO.

En el mismo dia se le notifico.

CASTILLO.

De conformidad con las leyes de la materia conforme el ayuntaniento del pueblo de San Jose si el contenido en esta instancia obtiene los requisitos prevenidos p'a ser atendido en su solicitud si el terrenog'e pretende esta conprendido en las veinte leguas limitro fas o diez litorales que espresa la ley de 18 de Agosto, de 1824; si es de regadio temporal o abrevaden si pertenece a la propriedad de algun particular corporacion o pueblo con todo lo demas que crea conserniente a ilustrar la materia. El S'r D'n Jose Castro, primer vocal de la e. diputacion y gefe politico de la Alta California hasi lomando decreto y firmo de que doy fe.

F'CO DEL CASTILLO.
NEGRETE TRIO.
JOSE CASTRO.

357 *Declaracion.*

La antecedente carta de lague se hace en el escrito que ante cede fue escrita y firmada por Jose Antonio Robles a ruego mio que vive en la b'r de Brenciforte y a quien conocio D. Pablo Vicente de Sola, governa tonces de este territorio p'r lo q'e no mostro embaiazo en poner a con..nuacion.

Sello tercero. Dos reales.

Habilitudo provicienalmente por la administracion de la aduana de Monterey de la Alta California para los anos de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

CASTRO.
ANGEL RAMIREZ.

De ella su permiso y para constancia lo declaro yo Joaquin Higuera asiendo a continuacion lasenal de la cruz p'r no saber escribir ante el secretario del gobierno politico en Monterey a veinte y ocho de Octuble de mil ochocientos treinta y sinco.

La declaracion antecedente senalada con la senal de la cruz esdada p'r Joaquin Higuera a quien conosco lo que certifico coma secretario del gobierno politico.

Monterey veinte y nube de Octubre de mil ochocientos treinta y sinco.

Droj. 20 vs.

F'CO DEL CASTILCO NEGRETE.

358 Reunido el Ay'to en sesion ordinaria de hoy se dio cta con viva representacion del C'o Joaquin Higuera, solicitando el torreno nombrado pala; y en cumplimiento del superior decrete del S'r Gefe Politico, espones este ayuntam'to lo siguiente, que el individuo tiene los requisitos para ser attendido en su solicitud que el terreno que pretende no esta comprendido en las 20 legual limitrofes, y si en las so lilorales, que no es de regadeo, sino, de temporal y abrevadero, que es pertenecients a la jurisdiccion del pueblo de S. Juad'e p'r le que crea puede concederselle el terreno indicado.

Pueblo de San Jose Guad'e, de Nov'e, de 1835.

ANTONIO M'A PICO.
IGNATIO MARTINEZ.
SETO.
JOSE BERREYESA.

S'r gobernador: PUEBLO DE S'N JOSE, *y Junio* 28, 1822.

Muy venerado S'r: Sola senne of rese molestar aff me haga la gracia de decretarme el memorial que tengo presentado a ff'a sobre el asunto
359 de hacer mi casa en el parage de pala en donde tengo mis siembras gracia y merced que espero de la acreditada justicia de ff. y en interes pido a Dios Nuestro S'r G'a la muy importante vida de f. s'a ma a para mi amparo y para amparo de todos los pobres la menor subdito que T. M. B. y obrese sus ordenes.

JOAQUIN HIGUERA.

Monterey, 6 de Junio, de 1822.

Puede construiv su casa en et parcje que solicita el contenido en csta carta sin perjuicio de los cargas gue to toguen como vecino del pueblo de S. Jose y p'a ello de manifestara esta al Sarg'to.

LUIS BERALTA, *Gober.*

S'or gobernador Dn. Pablo Bisente sola a dio, m en el Presidio de Monterey.

Sello tercero. Dos reales.

Habilitado provicion almente por la administracion de la aduana maritima de Monterey, de la Alta Californla, para lost anos de mil ochocientos treinta y cuatro y mil ochocientos treinta y cinco.

CASTRO.
ANGEL RAMIREZ.

MONTEREY, *N'bre* 5, *de* 1835.

360 Vista la peticion con gue da principio esta espediente el informe del ayuntamiento del pueblo de Sn. Jose G. de corformidad con las leyes y reglamentos de la materia se declara a Joaq'n Higuera dueno en propiedad del terreno conocido, con el nombre de *Pala*, Drosl. 12 p. s. sujetandose a los condiciones gue se estipularen reservece este espediente pa. dar cuenta a la E. Diputacion y livrese el despaeho oorespondiente que le seyvira de tituto al interesado a quien se le hara saber este decreto. El Sr. Dn. Jose Castro, primervocal de la E. diputacion y gefe politico interino de la Alta, California, asi lo mando doreto y firmo de gue doy fe.

JOSE CASTRO, *S'rio.*
F'CO DEL CASTILLO, *Negrete.*

EX'MO S'OR: La commision de terrenos valdios impuestos del espediente gue se mando practicar par solicited que hare el C. Joaquin Hjguera, del terreno nombrado pala, en jurisdiccion del pueblo de S. Jose G. no encontrando en el objecion alguna que hacer ciendo en todo conforme a la
361 ley de 18 de Agt. de 1824, y artlo. 50 del reglamto. de colonizacion pr. los informes que anteceden pone a los deliberacion de V. E. la proposicion siguiente.

Se aprueva la consecion hecha al C. Joaquin Higuera de terreno nombrado pala consedido en 5, de N'bre, de 1835, sugetandose a los condiciones que se estipularen y de pagar el cauven caso per tenesca a queya poblacion.

Mont'y, 5 de D'bre, de 1835.

SALVIO PACHECO.

MONT'Y, *D'bre* 10, *de* 1835.

En sesion de este dia aprobo la em'ts deputacion la proposicion cel dictamen antecedente dinponiendo.

Sello tercero. Dos reales.

Habilitado poovicion ammente por la administracion de la adue maritima de Monterey de la Alta Calafornia, para los anos de mil ochocientos trienta y cuatro y mil ochocientos trenta y cinco.

CASTRO.
ANGEL RAMIREZ.

Vuelva el espediente at sr. gefe politico pa. los fines consiguientes.

JUAN B. ALVARADO.

362 En vista de la aprovacion otorgada el dia 10, de este mes pr. la E. D. F. liverese testimonio de ella a de este decretro a la parte de Joaquin Higuera, Dros'l 8 p S., en confirmacion a la coesesion del terreno conocido con el nombre de Pala, que obturo en 5 de D'bre, de este ano. El S. D. Jose Castro, vocal de la E. D. F. y gefe politico interino asi lo mando secreto y firmo de que doy fe.

JOSE CASTRO.

Se le lebra el testimonio.

F'CO DEL CASTILLO NEGRETE, *Srio.*

(Here follows map, page 362.)

363 OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Manderville, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, as also the papers of the late board

of commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify that the ten (10) preceding and hereunto annexed pages of tracing paper, numbered from one to ten, (10,) inclusive, exhibit a true, full, and correct copy of an original document, entitled "Espediente promovido en solicitud del parage nombredo Pala, por Joaquin Higuera, 45," as the same appears on file among said archives, the *red lines* on page 10 representing the size and shape of a paper seal attached to the diseno or map with red sealingwax, said paper seal covering a portion of the drawing and writing on
364 said diseno or map.

In testimony whereof, I have hereunto signed my name officially,
[SEAL.] and caused my seal of office to be affixed, at the city of San Francisco, this 26th day of January, 1860.

J. W. MANDEVILLE,
U. S. Surveyor General for California.

Examined and found correct.

KEEPER OF ARCHIVES.

Endorsed: Filed Feb'y 8, 1860.

W. H. CHEVERS, *Clerk.*

365 *Archive testimony No. 2, filed by U. S. under stipulation of Nov. 1, 1859*

1834, No. 34 y 37.

Espedientes sobre los parages nombrado *La Laguna* y Santa Teresa solicitado pr. los C. C. Juan Alvirez a Joaquin Bernal.

102.

Jurisdiccion del pueblo de S. Jose, A'ne de 1833.

Espediente sobre el parage nombrado la Laguna solicitado por Juan Alvirez.

Sello tercero. Dos reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Monterey para los anos de mil ocho cintos treinta y tres, y mil ocho cientos treita y cuatro.

FIGUEROA.
JOSE RAFAEL GONZALES.

MONTEREY, *Mayo* 14, 1834.

S'or Gefe, sup'or politico:

El cuiduduno Juan Alvirez vecino del pueblo de S'n Jose Guada-
366 lupe ante vs. con el debido respeto bago presente que con fha, 30 de 826 solicite al Gobierno politico de este territorio un parage conocido con el nombre de la laguna que actualmente ocupo con mis bienes y labores.

Solicitense los antecedentes, agreguense, y dese cuenta para resolver.

FIGUEROA.

En 18 de Julio, de 1830, recorde mi pedide y acompane el diceno conforme con la ley de 21 de Nov're, de 1828, y hasta la fha, no he tenido resolucion, en el dicbo diceno no incluyo un corto pedazo de tierra que comprende una saca de agua que nuevamente he practicado de la dicha lagua p'a mis labores suplico a V. S. me conceda hta lo que ocupa dicha saca portanto. A. V. S. suplico se sirva dorse mis dichas solicitudes el giro quo tengo a bien

a fin de ced quirir la propiedad del mencionada terreno jurando no ser de malicea &.

Monterey, Mayo 12, de 1834.

JUAN ALVIREZ.

S'r Gefe, sup'r p'to :

En cump'to del and'te decreto de V. S. devuelvo esta imt'a con los antecedente a que se contrae.

Mont'y, Mayo 15, de 1834.

AGUSTIN V. ZAMORANO.

367 Sello 4o. Una quartilla.

Habilitado provicionalmente p'r la republica Mexicania para los anos, de 1825 y 1826, en el Territorio de California.

HERRERA.

S'or Gefe, sup'r :

El cindadado Juan Alvires Alcalde, constitutianal y recidente en el pueblo de S'n Jose Guadalupe del mando de vd. con el mas profundo respeto y subordinacion que debe ante vd parese y dice, que hace el tiempo de trea anos que ha solicitado un parage pa. rancho o estableseoniento de Ganado Mayor y labereje que elaman Laguna Seca distante del pueblo, cosa de cuatro leguas poco raos o menos y el antesesor de va. decretro a mi solicitud que no siendo en perjuicio de habitantes del referido rueblo quienes individuos del dk. podrian decir su parecer y si podrian franquiarme esta peticion pa. el caso hubo alyunos no ser acomodados motivo a interes que tenian pa. ser acredores igulamente como yo y considerando que ni yo, ni estos son distingvidos en regularidad de bienes pa. posee tal parage ya arriba dk, de nuebo declaro a la sup'r prudencia de vd. tenga a bien facilitarme a
368 permiso segun reconocido para poner en al referido parage un establo de Ganado, mayor leabaallada y siembras: Por tanto, a vd. rendidamente suplico se sirba probar como elevo pedido gracia que espero alcazar de en acreditado juicio y begninidad a lo que le vivira agradecido su seguro sernidor que at'to, B. S. M

Pueblo de S'n Jose de Guadalupe, 30 Junio, y 1826.

JUAN ALVIREZ.

Habilitado jurada por el Rey la Constitucion, en o de Marzo, de 1820.
Habilitado provicionalmente para los, anos de 1830 y 1831.
[SEAL.]

CASARIN.

S'or Gefe sup'or polit'o :

El cuidadano Juan Alvirez Alcalde actual del pueblo de San Jose, Guadalupe, ante V. S. con el devido respeto hace presente bue desede el cmo, de 826, dirijio a V. S. una solicitud pidiendo la propiedad del sitio elamado la laguna que esta en las inmediaciones de dicho pueblo, el que ha
369 fornentado desde el anos de 23, con previo comentamiente del ayuntamiento que en aquel entonces existia pero cumpliendo abora con las leyes establecidas pa. este fin acompano, a V. S. al diceno que previene el art o 2 o del reglamento de leolonizacion pa. que V. S. se sirva dispones lo que encuentre conveniente.

A. V. S. Pido, se sirva abrar de la manera que halle pr. justo en lo que reciaire merced y gracid.

Monterey, 18 de Julio, de 1830.

JUAN ALVIREZ.

(Here follows map, page 370.)

371 Habilitado p'a estos admistracion p'a los anos de 1834 y 35.
J. R. GONZALES.

MONTEREY, *Maye* 16, de 1834.

De confirmidad con las leyes de la matrria cenfirme el flustre ayuntumento del pueblo de Rn. Jose Guadalude si el contenido en esta instancia ebtiene los requisitos prevenidos pura ser atendido en su solicitud se el terrence que dretende esta comprendido en las veinte leguas limitrofes o diez litoracles que expressa la ley de 18 de Agosta de 1824; si es de regadeo temporal o abrevadero si pertenece a proprieday de alzun particular corporac n mussion a pueblo con todo lo demus que crea conducente a ilustrar la materia. El R'r D. Jose Figueroa general de Brigada, comandante general inspector y gefe superior politico del territorio de ca alta California asi lo mando decreto y firnio de que dey fe.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO,
Srio.

El interesado en esta instancia obteine los denechos prevenidos pa que se le atienda en su selicitud. I terreno que pretende no esta conpren-
372 dido en las veinte leguas limitrofes ni dioz literales que expresa la ley de 18 de Ag'to de 1824. El sitio es de temporal y tiene per limites el portesrelo de la laguna y el ojo de la cochi de oriente a prouiente de lorma a lorma de latitud. Estos limites espuestos en esta instancia no delen de regir p'r que ha sido una herreta.

Fl terreno que solicita pertenece a esta jurisdiccion dista de la poblacion de cuatro a cinco leguas las tierras de labor qre agreya en su espediente que tiene cuttivandas son de regadio y pertenecen al sitio de Rta Terasa cuyas tierras tienen una saca de agua de la misma laguna.

Pueblo de R. Jose 26, de Mayo de 1834

PEDRO CHABOYA, *Su Regidor.*
MAXIMO MARTINEZ.

MONTEREY, *Junio* 10, de 1834.

Pase al alcalde de esta capital ante guien lu parte de D. Juan Alvirez aoaducira una informacion de tres testigos idoneos que seran interrogados aene los puntos siguientes.

1o. Ri es ciududuno Mexicano p'r nacimiento si es cusudo y tarot
373 luijos si es de buena conducta.

2a. Ri el terreno qua pretende pertenoce a la propriedad de atruparticular mision corporacion o pueblo si es de regadio temporal o abarire dero y que extencion tendra.

3o. Ri tiene lienes con que problarlo o posibilidad de adquirilos. Dvas'ere dos estas dilig'as buelra el expediente p'a su resolucion el Rr. Jose Figu gen que a brig'der commandante g'l y gefe superior politico del terr'o de lalolp-California asi lo mando decreto y firmo de que doy fe.

JOSE FIGUEROA.
AGUSTIN V. ZANORANO, *Srio Mon.*

Rello tercero. Dos reales.

Habilitado provicion almente por la abministracion de la aduana maritima de Monterey para los anos de mil ocho cientos trienta y cuatro y mil scho cientes rreinta y cinco.

FIGUEROA.
RAFAEL GONZALES.

Monterey 11, de *Junio* de 1834.

En cumplim to al superior decreto que anterside del Rr. gefe po-
374 litico de fha 10 del corriente tomese la informacion de tres testigos idoneos y seran interrsgados sobre lost tres duntos que monciona diche sup'r decreto. Asi yo el alcude constitucional lo decrete mande y firme con los testigos de assistencia, dey fe.

CASARIN.
MANUEL JIMENO.

Assa: JOSE R. ESTRADA.
Assa: MAXIMO ESCOBAR.

En la fha piesente la palted de Don Juan Alvarez se le notifico en anto qu e antesede y entendido dij que co opo y firmi conmigo y las testigoes de asistencia.

CASARIN.
JUAN ALVIREZ.

Assa: JOSE R. ESTRADA.
Assa: MARCELINO ESCOBAR.

En la fha presente Don Jose Tiburcio castro se le recibio peram'to en toda forma divida per loque supiese y fuere preguentudo y siendolo per su nombra empleo estude edad patria y religion dijo llamarse como queda dicho que es lalrcedor cusade de sesento anos natural del estado ell guasabe y c A. R.

Interrogado solve lost tres puntos que menciona dicho superior de-
375 creto del Sr. Gefe Politico de fha 10 del corriento dijo. Our cenoce a don Juan Alverez y es Mexicany por nacimiento es casado y tiene hijos y es de buena conducto tambien conoce el terreno que pretende dicho Alvirez y no pertenese a la propiedud de mingun particular mision corporacion ni al pueblo de donde esta serca come cuatso y cinco leguas por que nunca lo ha ocupado que dicho terreno es de regardio y no de temporal que es de abruadero y tendra de estencio poco mus de dos legus que por ultimo dicho Alvirez tione lienes de campo cen que probarle que lo dicho es la verdad ha curgo del furamento que tiene hecho en el que se afirmo y ratifico leida que le fue esta su declaracionly firnio con migo y los testigos de asistencia

CASARIN.
JOSE TIBURCIO CASTRO.

Assa: JOSE R. ESTRADA.
Assa: MARCELINO ESCOBAR.

Sello tercero. Don reales.

Habilitado provicion almente por la administracion de la aduane maritima de Monterey para los anos mil ocho cientos trienta y cuatro y mil
376 ocho cientos trienta y cuatro y mil ocho cientos treinta y cinco.

FIGUEROA.
RAFAEL GONZALES.

Dn la fha presente Don Ceirlos Castro se le recibie juramento en toda forma debida por el que of recio decir verdad en lo que supriere y fuere preguntae y siendo por su nornbre empleo estado edad patria y religion dijo clamarse como queda cicho que labrador edad de serenta anas natural de Sonora y c A. R.

Interrogade solre los tres puntos que menciona el espresado sup'r decreto del Sr. Gefe politico de fha 70 del corriente dijo que Don Juan Alvirez es ceududuno Mexicans por nacim'to que er casado, tiene hijos y es de luena couducta que el terreno que solicita dicho Alvirez no pertinece a la propriedad de ninguna particular mision ni corporacion solamente de Pueblo de San Jose Guadalupe pero que esta nunca co ha occupade que dicho terreno es de

regardio es de temporal y alruadero que tendra de estencion poco mas de dos leguas por ultima que el espresado Alvirez tiene lien de campo con que poblar lo que lo discho es lo verdad ha cargo del juramento que tiene hecho en el que se afirma y ractifica leia que le fui esta su declaracion y
377 firmo con migo y los testigoes de asestencia.

CASARIN.
CARLOS CASTRO.

Assa: JOSE R. ESTRADA.
Assa: MARCELINO ESCOBAR.

En la fha presente Don Salvio Pacheco de el recibei juramento en la forma devida por el que ofrecio decir verdad en lo que supiese y fuere pregunato y siendo por su nombre empleo estado edad patria y religion dijo llamarse come queda dicho que es labrador casado de treinta y nueve anos natural de este puerto y C. A. R.

Interrogado solre los tres puntos que menciona el repetido sup'r decreto del Ror Gefe politico de fha 10 del corriente dijo. Oue Don Juau Alvirez el ciududuno Mejicano por nacimiento que es cuseido tiene hijos y es de buena condusta que el terreno que solicita dicho Alvirez no pertencece a la propiedad de ningun particular meision corporacion ni pueblo que esde regadis temporal y abrevadero y que tendra de extencion polo mas o menos de los leguas por ultimo que el cumpo con que poblarlo que lo dicho es la verdad ha cargo del juramento que trene hecho en el que se afirmi y ratifico
378 leida que le fue esta su declaracion y firmo cohmigc y los testigos de

CASARIN.
SALVIO PACHEO.

Assa: JOSE R. ESTRADA.
Assa: MARCELINO ESCOBAR.

Sello tercero. Dos reales.

Hailitado provicionalmente por la administracion de la aduana maritima de Monterey para los anos de mil ocho cientos treinta y cuatro y mil mil och cientos treintay y cinco.

FIGUEROA.
RAFAEL GONGALEZ.

Monterey, Junio 11 de 1834.

Concluidus estas diligencias vuelva el espediente de Sor Gefe politico para su resolucion. Asi yo el acalde constitucional lo decrete mande y firme con los testigos de assistencia.

CASARIN.

Assa: JOSE R. ESTRADO.
Assa: MARCELINO ESCOBAR.

MONTEREY, *Junio* 12, *de* 1834.

Vista la peticion con que da principio este espediente el informe de la autoridad municiul de pueblo dee Sn. Jose Guadajupe los esposiciones de los testigos con todo lo demas que se twvo y ver convino de confirmidud con lo dipuesto per las leyes y reglamentos de la materia se declara a D. Juan Alvirez dueno en propriedad del terreno coricido con el nombre de la Laguna colindate con los ranchos de Dn. Fran's de las Leagas y sta. teresa a Sierras laterales. Dirijase este espediente a la exma. Diputacion para la devida aprovacion el. Sr. D. Jose Figueroa, gen'l de brigada com'te, gen'l insp'r gefe sup'r politico, de la alta California, asi lo mando decro y firmo de que doy fe.

JOSE FIGUEROA.

AGUSTIN V. ZAMORANO, *Srio.*

MONTEREY, 14 *de Junio de* 1834.

En sesion de este dia acordo la Exma. Diputacion pase este expediente a las comisciones Unidas de Colonizacion y Terrenos baldios.

JOSE FIGUEROA.

Sello tercero. Dos reales.

Habilitado provicionalmente por la Administracion de la Aduana Maritima de Monterey para los anos de mil ocho cientos treinta y cuatro y mil ocho cientos treinta y cinco.

380 FIGUEROA.
RAFAEL GONZALES.

Sor'e Gefe, Sup'or Politico:

El cindadano Juan Alvirez vecino del pueblo de San Jose sequn derecho respetuosamente hace a V. S. presente. One el ano de 1823, consiguio permiso p'r D'n Luis Ant'o Arguello encargado interurmente del mando politico p'a estableser en el paraje nombrado Laguna Seca el que actualmento ocupa colindado con el cuidadano Joaquin Bernal, a guien siendo. Yo alcalde de dho pueblo el ano de 826, le permiti pusiese su ganado en separo del de la comunidad en el de S'ta Teresa mientras que conseguia el que solicitaba nombrado el injorto el que en efecto le fue consedido, mas a birtud de saber, el que representa, que Bernal pride su propiedad el de. S'ta Teresa cuyo diseno comprende mis laborios y sacas de ayua en lo que tenyo sifrada mir subsistencia.

Sor'e este individuo que intenta despojarme de un derecho de un derecho que he adquerido a fuerza de sacreficios costosos no es acredor a loyrar sus fines en la parte a que se contrae a perjudicarme Portanto A. V. S.
381 suplico se sirba obrar en el particular segun encuentre de justicia y sea conveniente juro lo necesario, &c.

Monterey, 5 de Junio, de 1834.

JUAN ALVIREZ.

MONTEREY, *Junio* 6, 1834.

Traslad a la puerta de Joanquin Bernal por el termino de tres dias.

FIGUEROA.

Sello torcero. Dos reales.

Habilitado provicionalmente por la administracion de la Adua Maritima de Monterey para los anos de mil ocho cientos treinta y cinco.

FIGUEROA.
RAFAEL GONZALES.

Sor. Comand'te Geal y Gefe, Sup'r Político:

Joaquin Bernal en defensa de sus derechos y en contestacion a lo contenido en la representacion del C. Juan Alvlrez que V. S., se sirvio transladarme conflade 6 del corriente, ante V. S. con el mayor respeto comparece y dece El Sr. Alvirez mismo en la representacion citada se ha visto
182 obligado a confesar dos cosas muy favorables a mi pretencior; la primera que el paarje que el obtuvo interinamente de D. Luis Arguello, es la Laguna que actualm'te ocupa y que colinda con el parage ocupado por mi; la segunda que el mismo, siendo alcalde del pueblo de San Jose en el ano de 1826, me dio permiso para separar mis bienes de la comunidad y ponerlos en el parage elamado Santa Teresa. Hasta aqui

vamos acordes, pero ahora no contento el Sor. Alvires con el paraye que se ledio, despues de tomar posesion violenta de parte de las tierras que he poseido yo pacificamente tantos anos me acusa de quererle despojar de lo suyo, siendo ciertisimo que el parage endonde estan sus siembras pertenice a Santa Teresa y deninyuna manera a la Laguna seca; y tambien es notoria y bien publico que el no ha hecho uso, ni pretendido tal parage hasta el ano pasado enando se metio por fuerza, a pesar de mis reconvenciones.

Los sacrificios costosos que alega el Sr. Alvirez haber hecho en el
383 parage en cuestion, merecen a mi entender, mas bien castigo que premio, pues por ellos ha tratado de quitar por fuerza lo ageno, e incomodar sin necesidad alguna (pues no le fattan tierras buenas de labor en su propio sitio) a un vecino pacifico que nunca le la injuriado.

Por todo lo espuesto pues, me lisongeo Senor, que V. S. conocera injusta; ni quiero perjudicar al Sor. Alvirez, pero la tierra en cuestion a demas de pertenecer a Santa Teresa y no a la Saguna Seca, me hace muchisima falta, y si se le consechise al Sor. Alvirez, preveo los resultados mas funestos, pro que tendria que abandonar el sitio que ocupo y en que he gastado tanto (pues hay ya hechas, cuatro cassas de adobe y dos otras comensados, una huerta, muchos arboles frutates, vina, &c.,) por no andar en pleitos continuos; y

Por tundo A. V. S. humillemente suplico tenga a bien disponer que el Sor. Alvirez, se contente con lo suyo, y que a mi me dije en pacifica posesion del paraje que ha usurpado protestando no proceder de malicia y lo necesario.

Monterey, 12 de Junio, de 1834, a ruego del interesado.

384 GUILL'O ED'O HARTNELL.

MONTEREY, *Junio* 16, *de* 1834.

Dese cuenta a la Exma. diputacion territorial y agreguese al espediente promovido por Juan Alvirez en solicitud del Terreno de la Laguna.

FIGUEROA.

MONTEREY, 17 *de Junio, de* 1834.

En sesion de este dia se acordo pase a las comisioners de colonizacion y terrenos valdios.

FIGUEROA.

Sello tercero. Dos reales.

Habilitado provicionalmente por la administrecion de la Aduana Maritima de Monterey para los anos de mil acho cientos trienta y cuatro y mil ocho cientos treinta y cinco.

FIGUEROA.
RAFAEL GONZALES.

Sr. Gefe, Supe'r Polit'o:

El cindadano Juan Alvirez becino del pueblo de S'n Jose Guadalupe poseedor del parage elamado la Laguna Seca, ante V. S. comforme halla lugar en der echo hago presente envirtud de lo que alega en quatro del corriente la parte del cuidadano Joaquin Bernal en la cuestion que ha promovido quejandose que me he indroducido en los limites del Terreno de S'ta Teresa que le pertenece digo que el etho individuo no tiene absolutamente motivo p'a quejarse de despojo p'r que en nada creo aberle quitado Tierras de su propiedad, el Rancho de S'ta Teresa no tiene senalado limites p'r ninguna autoridad, y p'r consiguiente no puede tener mas estencion a su propiedad hasta ahora que aquella que ha cultivado y formentado con sus

MONTEREY, 14 *de Junio de* 1834.

En sesion de este dia acordo la Exma. Diputacion pase este expediente a las comisciones Unidas de Colonizacion y Terrenos baldios.

JOSE FIGUEROA.

Sello tercero. Dos reales.

Habilitado provicionalmente por la Administracion de la Aduana Maritima de Monterey para los anos de mil ocho cientos treinta y cuatro y mil ocho cientos treinta y cinco.

380 FIGUEROA.
RAFAEL GONZALES.

Sor'e Gefe, Sup'or Politico:

El cindadano Juan Alvirez vecino del pueblo de San Jose sequn derecho respetuosamente hace a V. S. presente. One el ano de 1823, consiguio permiso p'r D'n Luis Ant'o Arguello encargado interurmente del mando politico p'a estableser en el paraje nombrado Laguna Seca el que actualmento ocupa colindado con el cuidadano Joaquin Bernal, a guien siendo. Yo alcalde de dho pueblo el ano de 826, le permiti pusiese su ganado en separo del de la comunidad en el de S'ta Teresa mientras que conseguia el que solicitaba nombrado el injorto el que en efecto le fue consedido, mas a birtud de saber, el que representa, que Bernal pride su propiedad el de. S'ta Teresa cuyo diseno comprende mis laborios y sacas de ayua en lo que tenyo sifrada mir subsistencia.

Sor'e este individuo que intenta despojarme de un derecho de un derecho que he adquerido a fuerza de sacreficios costosos no es acredor a loyrar sus fines en la parte a que se contrae a perjudicarme Portanto A. V. S.
381 suplico se sirba obrar en el particular segun encuentre de justicia y sea conveniente juro lo necesario, &c.

Monterey, 5 de Junio, de 1834.

JUAN ALVIREZ.

MONTEREY, *Junio* 6, 1834.

Traslad a la puerta de Joanquin Bernal por el termino de tres dias.

FIGUEROA.

Sello torcero. Dos reales.

Habilitado provicionalmente por la administracion de la Adua Maritima de Monterey para los anos de mil ocho cientos treinta y cinco.

FIGUEROA.
RAFAEL GONZALES.

Sor. Comand'te Geal y Gefe, Sup'r Politico:

Joaquin Bernal en defensa de sus derechos y en contestacion a lo contenido en la representacion del C. Juan Alvlrez que V. S., se sirvio transladarme conflade 6 del corriente, ante V. S. con el mayor respeto comparece y dece El Sr. Alvirez mismo en la representacion citada se ha visto
182 obligado a confesar dos cosas muy favorables a mi pretencior; la primera que el paarje que el obtuvo interinamente de D. Luis Arguello, es la Laguna que actualm'te ocupa y que colinda con el parage ocupado por mi; la segunda que el mismo, siendo alcalde del pueblo de San Jose en el ano de 1826, me dio permiso para separar mis bienes de la comunidad y ponerlos en el parage elamado Santa Teresa. Hasta aqui

vamos acordes, pero ahora no contento el Sor. Alvires con el paraye que se ledio, despues de tomar posesion violenta de parte de las tierras que he poseido yo pacificamente tantos anos me acusa de quererle despojar de lo suyo, siendo ciertisimo que el parage endonde estan sus siembras pertenice a Santa Teresa y deninyuna manera a la Laguna seca; y tambien es notoria y bien publico que el no ha hecho uso, ni pretendido tal parage hasta el ano pasado enando se metio por fuerza, a pesar de mis reconvenciones.

Los sacrificios costosos que alega el Sr. Alvirez haber hecho en el
383 parage en cuestion, merecen a mi entender, mas bien castigo que premio, pues por ellos ha tratado de quitar por fuerza lo ageno, e incomodar sin necesidad alguna (pues no le fattan tierras buenas de labor en su propio sitio) a un vecino pacifico que nunca le la injuriado.

Por todo lo espuesto pues, me lisongeo Senor, que V. S. conocera injusta; ni quiero perjudicar al Sor. Alvirez, pero la tierra en cuestion a demas de pertenecer a Santa Teresa y no a la Saguna Seca, me hace muchisima falta, y si se le consechise al Sor. Alvirez, preveo los resultados mas funestos, pro que tendria que abandonar el sitio que ocupo y en que he gastado tanto (pues hay ya hechas, cuatro cassas de adobe y dos otras comensados, una huerta, muchos arboles frutates, vina, &c.,) por no andar en pleitos continuos; y

Por tundo A. V. S. humillemente suplico tenga a bien disponer que el Sor. Alvirez, se contente con lo suyo, y que a mi me dije en pacifica posesion del paraje que ha usurpado protestando no proceder de malicia y lo necesario.

Monterey, 12 de Junio, de 1834, a ruego del interesado.

384 GUILL'O ED'O HARTNELL.

MONTEREY, *Junio* 16, *de* 1834.

Dese cuenta a la Exma. diputacion territorial y agreguese al espediente promovido por Juan Alvirez en solicitud del Terreno de la Laguna.

FIGUEROA.

MONTEREY, 17 *de Junio, de* 1834.

En sesion de este dia se acordo pase a las comisioners de colonizacion y terrenos valdios.

FIGUEROA.

Sello tercero. Dos reales.

Habilitado provicionalmente por la administrecion de la Aduana Maritima de Monterey para los anos de mil acho cientos trienta y cuatro y mil ocho cientos treinta y cinco.

FIGUEROA.
RAFAEL GONZALES.

Sr. Gefe, Supe'r Polit'o:

El cindadano Juan Alvirez becino del pueblo de S'n Jose Guadalupe poseedor del parage elamado la Laguna Seca, ante V. S. comforme halla lugar en der echo hago presente envirtud de lo que alega en quatro del corriente la parte del cuidadano Joaquin Bernal en la cuestion que ha promovido quejandose que me he indroducido en los limites del Terreno de S'ta Teresa que le pertenece digo que el etho individuo no tiene absolutamente motivo p'a quejarse de despojo p'r que en nada creo aberle quitado Tierras de su propiedad, el Rancho de S'ta Teresa no tiene senalado limites p'r ninguna autoridad, y p'r consiguiente no puede tener mas estencion a su propiedad hasta ahora que aquella que ha cultivado y formentado con sus

vienes ningieno puede ser mejor testigo que yo mismo p'r que siendo
385 alcalde elano de 29, le permiti ocupar con sus brines este sitio interenam'te mientras que conseguia, el parage del Ingesto el que es positeio se le consedio en tiempo de D'n Luis Arguello, y como no le gust'o siguio formentando el primhro. Este es el origen que tiene la adjudicncion del repetido parage y hasta lafha, se ha estado en el con solo mi permiso que por veneficiar a su familia me expanse a la responsabilidad no crellendome confacultad p'a disponer arvitrariam'te de las Tierras del comun por este motivo al poner mis labores me crei con tando derecho como el tho Sr. Bernal, y p'a beneficiarme hice la saca de agua que al efecto he conseguido muchos bentojas p'r que en lo demas del Terreno que he solicitado no hay Tierras de regadio.

Dice el Sr. Bernal que le he amenasado cuando me ha reconvenido y en esto falta a la verdad pues nunca me ha pasado tal cosa con este anciano no negare que si he chocado con un Yerno sayo el Sr. D'n Antonio Sunol, pero este argumento tray otro origen muy distinto que hasta ahora lo he tratado con prudencia y me escnso en lo posible de enprenderla con el.

Por lo expuesto Sr. Gefe, Politico V. S. se servira tomar en consid-
386 eracion lo dho, y atender a los perjuiciors que se me seguiran si disistiera en mi solicitud perdiendo un corto pedaso de terreno que con grandes sacrificios he beneficiado por fomentarme por lo tanto.

Sello tercero. Dos reales.

Habilitado provicionalmente por la administracion de la Aduana Maritima de Monterey para los anos de mil ocho cientos treinta y cuatro y mil ocho cientos treinta y cinco.

FIGUEROA.
RAFAEL GONZALES.

A. V. S. suplico se sirba atender a lo espuesto y disponer lo que encuentre dejusticia jurando no ser demalicia y lo necesario, &c.
Monterey, 12 de Junio, de 1834.

JUAN ALVIREZ.

MONTEREY, *Junio* 14, *de* 1834.

Dese cuenta a la Exma Deputacion y agreyuese al expediente promovido por Joaquin Bernal en solicitud del Terreno de Santa Teresa.

FIGUEROA.

MONTEREY, 17 *de Junio, de* 1834.

En sesion de este dia se acordo pase a las comisiones de colonizacion y terrenos valdios.

FIGUEROA.

387 Jurisdiccion de S'n Jose Guadalupe, ano de 1834.

Espediente sobre el rancho nomb'do S'ta Teresa pide su posecion legal.
D. JOAQUIN VERNAL.

Sello cuatro. Una cuartilla.

Habilitado provicionalmente por la administracion de los Aduana Maritima de Monterey para los anos de mil ocho cientos treinta y cuatro y mil ocho cientos treinta y cinco.

FIGUEROA.
RAFAEL GONZALES.

Sor Gefe Supor. Politico:

El cindadano Juaquin Bernal invalido de la compania de San Francisco, ante V. S. en la mejor forma se presenta y dice, que hace el termino de cinco anos que el Y. Ayuntamiento del pueblo de San Jose nee concedio un sitio perteneciete a su jurisdiccion elamado y conocido por el nombre de S'ta Teresa, cuya descripcion alografica acompano. En consecuencia de
388 etho permiso, tome posesion del indicado sitio, radicandome en el con los bienes y fincas abajo expresada, gozando tranquilamente. En atencion al bien estar de nei numerosa familia y el mejor resguardo de los bienes que poseo, he hecho repetidas instancias a los auteriores de V. S. en solicitud de la lejitima conchsion de este parage, sin haberse hecho nimguna determinacion defihitiva. Ocurro pues a la notoria vectitud de V. S. para que se sirva de concederme la legitima propiedad del sitio de S'ta Teresa en obsequio de los servicios que he prestado a la nacion, el numero considerable de mis bienes y la numerosa familia que de estos subsisten y para que en ellos hayan mayores estimulos a las labores y el fomento de otros ramos de industria. Me hallo en la avanzada edad de sesenta y cuatro anos y con una decendencia de sesenta yocho almas quienes subsisten en el repetido
389 sitio, en donde se hun fabricado cuatro casas de Adobes, se ha plantado una vinta de mil cepas, y una huerta que contiene mas de dos cientos arboles frutales. Mis bienes de campo son los sig'tes dos mil y cien cabezas de ganado menor tres manados de yeguas, cincuenta cabollos mansos, veinte y dos y untas de bueyes, y cinco bestias mulares. Todo lo cual ocupa el muy repetido sitis de S'ta Teresa y lo pongo al conoci miento de V. S. para que se sirva de clevar mi suplica a la Exma Diputacion Territorial y para que se digne de concedeme la propiedad que solicito en caso de ser acreedor a ello. Por Fanto Rendidamente suplico se digne de proveer como elevo pedido que es gracia que pido, &c.

Pueblo de San Jose, y Mayo 10, de 1834.

JOAQUIN BERNAL.

MONTEREY, *Mayo* 14, *de* 1834.

De conformidad con las leyes de la materia informe el Ayuntamiento al pueblo de S'n Jose Guadalupe se el interesado en esteresado en esta instancia obtiene los riquisitos prevenidos para ser atendido en su solicitud, si el terreno que pretende esta conprendido en las 20 leguas limitrofes 010 litorales que expresa la ley de 18, de Agosto de 1824, seis de regadio, temporal o abrevadero; sipertence a propiedad de algun particular corporacion mision o pueblo, con todo lo demas que crea conducente a ilustrar la materia notificando a la parte presente el diseno del terreno que solicita. El Sor. D. Jose Figueroa, general de brigada comandante, A. V. S. general y Gefe Superor Politico del territorio de la Atta Califirna asi lo mando dexreto y firmo de que eloy fe.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANO, *Srio.*

PUEBLA DE SAN JOSE, *y Mayo* 19 *de*, 1834.

El ciudadano Joaquin Bernal, interesado en esta instancia y todos
390 los Moradores del Rancho de Sta Teresa obtiene de todos los requisique previene la ley. El Sitio no esta comprehendido en los limites que espresa la ley de 18 de Agosto de 1824, pero si pertenece a la jurisdicçion de este Pueblo y dista del, un lindero mas proximo, dos leguas, tiene de latitud en su punto mas ancho, una legua, de longitud, una legua y cuarta, es decir, desde la Loma de las Lagrimas, hasta el portezuelo de la Loguna. El pretendiente posee mas de dos nul cabezas de ganado mayor y un numero considerable de ganado menor y caballado y ha fabricado y actualmente

estan fabricando buenos casas y ultimamente tiene el merito de baber plantado vina y huertas de arboles con el corto auxilio de un peyueno aguaje en la inmediacior de las casas, siendo todo lo demas del torreno de temporal y para que coreste endonde convenya lo firmo con el primer regidor de este Ayuntamiento por falta del secretario.

MAXIMO MARTINES.
PEDRO CHABOYA.

MONTEREY, *Mayo* 24, *de* 1834.

391 Pase al alcalde esta capital auto quien la parte de Joaquin Bernal, producira una informacion de tres tertigos idoneos que seran interrogados sobre los puntos siguientes. Primero si el solicitante es es ciudadano Mejicano pr. nacimiento si es casado y tiene hijos (segundo) si es de buena conducta. Segundo : si el terreno que pretende pertenece a la propiedad de algun.

Sello Cuarto una Cuartilla Habitidado provicionalmente por la Administracion de la Aduana Maritima de Monterey, para los ano de nul ocho cientos treinta y sinco.

FIGUEROA.
RAFAEL GONZALES.

Particular Mision, Pueblo o corporacien si es de regadio, temporal o abrevadero y que estencion tendra Tercero : si tiene bienes de campo con que poblar lo o posibilidad de adquirirlo, Evacudadas estas dilijincias vuelva el espediente para su vesolucion. El Sr. D. Jose Figueroa general de brigada, commandante general inspector y gefe superior politico del Territorio de la Alta California, asi lo mando decreto y firmio de que doy fe.

JOSE FIGUEROA.

PUEBLO DE SAN JOSE, *y Mayo* 13, *de* 1834.

392 El ciudadano Agustin Bernal, en nombre de su padre Joaquin Bernal, ante V. con el debido respito se presenta y dice que no habiendo podido obtiner hasta la presente, la legitima propiedad del Ranch de Sta Teresa, que acaso habra sido por haber fattado el requisito de la noticia exacta del expresado sitio. Occurro a V. para que el sirva daruna noticia geografica de la situacion del rèpeti do parage, por loque A. V. surplico se sirva olrar en esta mi peticion como mejor haya lugar en derecho no yendo en papel sellado por no haberlo de ninguna clase en este lugar.

AUGUSTIN BERNAL.

Sor Alcalde Constitucional :

PUEBLA DE S. JOSE, *Mayo* 13, *de* 1834.

El sitio nombrado Sta Teresa pertenecienta a la jurisdicion de esta Pueblo y occupado pr. el interesodo tiene pr. limites de Sur ha Norte el Portezuelo de la Luguna y la loma de los Lagamas, y tiene seis mil varas de la titud su estencion de longitud se comprende entre los Lomas aurel occidte donde estan los jaucicos y los primeras lumas aloriente y tiene de Terreno una legua logl. ocupa el interesado pr. concesion de este Ayuntamto. sin perjiucio de este Ayuntamiento Pueblo.

PEDRO CHABOYA.

(Here follows map, see page 393.)

394 Sello tercerò. Dos reales.

Habilitado provicionalmete por la Administracion de la Aduana Maritima de Monterey para los anos de mil ocho cientos treinta y cuatro y mil ocho cientos treinta y cinco.

FIGUEROA.
RAFAEL GONZALES.

En cumplimiento al supr. decreto del sor gefe supr. politico de fha 24 del corriente, tomese la informacion de tres testigos, idoneos, y seran interrogados sobre los puntos que menciona dicho supr. decreto. Asi yo el alcalde constitucional lo decreto mando y firmo, con los testigos de asistencia con quienes actuo en la forma establecida doy fee.

MANUEL JIMENO.
CASARIN.

Assa : JOSE MARIA CASTANARES.
Assa : JOSE R. ESTRADA.

En la fha se le notifico a la parte de Joaquin Bernal, el anto que antesede y entendido dejo que lo oye y no firme por no saber lo hice yo con los de asistencia.

CASARIN.

Assa : JOSE R. ESTRADA.
395 Assa : JOSE MARIA CASTALLARES.

En la fha Don Jose Joaq'n Eestudillo se le vecibio juramento en toda forma de dereche por el cual ofrecio decir verdad en loqne sapiere y fuere preguntado y siendolo por su nombre eitado edad Patria y religion dijo llamarsee como queda dicho que es casado de trienta y cuatro anos natural de este puerto de Monterey y C. A. R.

Interrogado sobre los tres puntos que menciona el supr. decreto del Sor gefe politico dijo : que conoce al ciudadano Joaquin Bernal que es ciudadano Mejicano por nacimiento que es casado tiene hijos y es de muy buena conducta, que tambien conoce el torreno que pretende dicho Bernal y que no pertenece a la propriedad de ningun particular., Mision Pueblo y ni ha corporacion ninguna ; que dicho terreno no es de regadion, y si de temporal y abrevadero, y que su estencion sera cosa de dos leguas, que dicho Bernal tiene lastantes bienes con que problarlo,. siendo estos de campo suficientes
para el torreno solicitado, que lo dicho es la verdad a cargo del jura-
396 mento que tiene hecho en el que se afirmo y ractifico leida que le fue esta su declaracion y firmo con migo y los de asistencia.

CASARIN.

Assa : JOSE MARIA CASTALLARES.
Assa : JOSE R. ESTRADA.

En la presente el vecino vicente Cantua se le recibio juramento en toda forma de derecho por el cual ofrecio decir verdad en lo que supiese y fuese preguntado y siendolo por su nombre citado edad Patria y religion dijo : llamarse como queda dicho que es casado de cuarenta y tres anos natural de este puerto de Mont'y y C. A. R.

Interrogado sobre los tres puntos haque se contrae el sup'r decreto del sor gefe politico fha veinte y cuatro del corriente dijo : que conoce al ciud'no Joaquin Bernal, que es ciud'no Mejicano por nacimiento que es easado, tiene hijos yes de buena conducta, que tambien connoce el terreno que pretende dicho Bernal, y que no pertenece a la propriedad de ningun particular Mision Pueblo, y ni ha corporacion ninguna ; que dicho terrene no es de regadio, y
si de temporal y abrevadero, y que su estencion sera poco mas de dos
397 legus, que el meneinado Bernal tiene bastantes bienes de campo con que poblarlo que lo dicho es la verdad a cargo del juramento que tiene hecho en el que se afirmo y ractifico leida que lo fue esta sue declaracion y no firmo por que dijo no saberlo hice yo con los de asistencia.

JOSE MARIA ESTUDILLO.
CASARIN.

Assa : JOSE MARIA CASTALLARES.
Assa : JOSE R. ESTRADA.

Sello tercera. Dos reales.

Habillitado procicionnalmente por la administracion de la Aduana Maritima de Monterey para los anos de mil ocho cientos treinta y cuatro y mil ocho cientos treinta y cinco.

RAFAEL GONZALES.
FIGUEROA.

En la fha presente el vecino Marino Duarte se le recibio juramento en toda forma de derecho por el cual ofrecio decir verdad en lo que supiese y fuere preguntado y siendolo por su nombre citado edad Patria y religion dijo : llmarse como queda dicho que es casado de cincuenta y siete anos natural de este puerto de Monterey, y C. A. R.

398 Interrogado sobre los tres puntos haque se refiere el sup'r decreto del Sor gefe politico de fha veinte y cuatro del corriente dijo : que conoce al ciudadano Joaquin Bernal, qae es ciudo'no Mejicano por nacim'to que es casado tiene hijos y esde buena conducta ; que tambien conoce el terreno quc pretende dicho Bernal, y que no pertenece a la propriedad de mingun particular Mision Puelo y ni ha corporacion ninguna ; que dicho terreno no es de regadio y si de temporal y abrevadero y que ser estencion sera cosa didos leguas, que dicho Bernal tiene lastantes bienes de campo con que problarlo, que lo dicho es la verdad ha cargo del juramento que tiene hecho en el que se afirmo y ratifico leida que le fue esta su declaracion y firmo con migo y los testigos de asistencia.

MARIANO DUARTE.
CASARIN.

Assa :· JOSE MARIA CASTALLARES.
Assa : JOSE R. ESTRADA.

Sello tercero. Dos reales.

Habillitado provicionalmente por laadministracion de la Aduana Maratima de Monterey, para los anos de mil ocho cientos treinta y cuatro y mil
399 ocho cietos treinta y cinco.

FIGUEROA.
RAFAEL GONZALES.

Monterey, 27 de Mayo, de 1834.

Concluidas estas diligencias ruelva el espediente al Sor. Gefe Sup'r Politico para su resolucion Asi yo el Alcalde lo decrete mande y firme con losde assistencia. Doy fee.

CASARIN.

Assa: JOSE MARIA CASTELLARES.
Assa: JOSE R. ESTRADA.

MONTEREY, *Junio* 10, *de* 1834.

Vista la peticion con queda principio este expediente el informe de la autoridad muaicipal dee puebla de San Jose Guadalupe, la esposicion de los testigos don todo lo demas que se tubo presente que, ver convino de conformidad con lo dispuesto por las leyes y reg lanuntos de la materia se declara a Don Joaquin Bernal dueno en propiedad del terreno conocido, con el nombre de Santa Teresa colindante con el rancho de la Laguna, Loma de San Juan y Sierras latterales, sin perjuicio del approvechamiento comun por lo respectivo a pastos, Lena, Aguas, madera &'a de los habitantes del pueblo de San Jose y sugeto arpagar el canon que se le inponga si
400 resultara pertenecer a los ejidos de dicho pueblo cuando se arreglen

sus limites direjase este expediente a la exma deputacion para la devida aprovacion. El Lor. D. Jose Figueroa, gen'l de brigada comandante general inspector gefe superior politico de la Alta California, asi lo mando decreto y firmo de que doy fee.

JOSE FIGUEROA.

AGUSTIN V. ZAMORANO, *S'rio.*

MONTEREY, *Junio* 12, *de* 1834.

En sesion de este dia acordo la exma disputacien pase este expediente a la comission de terrens laldio.

FIGUEROA.

Sello tercero. Dos reales.

Habilitado provicionalmente por la administracion de la aduana maritima de Eonterey para los anos de neil ocho cientos treinta y cuatry y mil ocho cientos treinta y cinco.

FIGUEROA.
RAFAEL GONZALES.

Sor. commandante gral y gefe sup'or poli'co:

401 Joaquin Bernal, soldada invalido a la comp'a de S. Fran'co y ave cindado en el rancho en S'ta Teresa en sa nombre y en el de de sas Hijos ante V. S. con el respeto debido nace presente y 12 del mismo se presente a la superioridad de V. S. haciendo ver el per juicio que se le se sique de hoberse metido en su sitio de su autoridad propia et C. Juan Aivirez, y ahora sabedor vue se le ha concedido pr. V. S. o la exma deputacion no puede menos de hacerle pres'te qre es el unico alrevaden que hay en mi pro. y que ai C. Alvirez le solran en su sitio tierras de siembras y campos es nue solo pr. para codicio ha solicitade de quererme despoyjar de lo que ijitamamente me pertenece y me es indispensable hacer ver a V. S. lo, muchrs hijos Ternos y Niestos que tenyo que antes de poco ya aquie no sera rancho sino pueblo; y asi Sor conociendo V. S. el gran per juicio que se me hace que se me quite este alrevadero espero se deynara to-
402 mese en consideracion la abundancia de ganados con que me halloasi como tambien la mucha gente que havita en el citado mi rancho. Portanto A. V. S. pido y suplico se digne tener en consideracion esta mi solicitud de que recibire gracia y mercel.

Monterey, 28 de Junio, de 1834.

SOR. JOAQUIN BERNAL.

MONTEREY, *Junio* 28, *de* 1864.

En sesion de este dia se mando pasar esta solisitud a la comisiones donde se hallan los antecedentes.

FIGUEROA.

Sello tercero. Dos reales.

Habitilado provicionalmente por la administracion de la aduana maritima de Monterey para los anos de mil ocho cientos treinta y cuatro y mil ocho cientos treinta y cinco.

FIGUEROA.
RAFAEL GONZALES.

Sor. comand'te gral, y gefe sup'or politico:

Joaquin Bernal, natural del estado de sinalva y de fundador en este terri-

torio sincuento y cinco anos; ante V. S. con el mas debido respeto me presento y digo que haelandome poseedor del rancho nombrado Sta.
403 Teresa desde el ano de 1829, segun lo manifiesta el diseno que se alla el manos de V. S. y como ctho sitio se alla colindante al rancho del C. Alvirez dicho Sor. sin embargo de haber sido recombenido por me varias veces p'a que no se tomase terreno del que ami pertenece, siempre a ensestido a elevar adelante su idea, con algunas amenas as capasas de esponer la quietud de mi familia, y considerables trastornos, como podre justificarlos ante V. S. en cuya virtud, conociendo loque se empena V. S. en tranquilisar a los habitantes de este territorio, por midio de su notoria prudencia; se digne el que el mencionado Alvirez noquiera estorbar mi propiedad, sajetundolo a lo que se solo de su pertenencia; pues de lo contrario, Sor. y sup'or gefe nos esponemos ambos de que serea molestar la atencion, y a ambos muy perjudiciales p'r sus amenazss injustos A. V. S. P. F. rendidamenta suplico que en obsequio del que representa decrete lo que su sabin penetracion ayas de just'a gracia que espera de su bien conocida londad el que jura so ser de malicia, y lo necesario, &c.,
404 Monterey, 4 de Junio, de 1834.

JOAQ'N BERNAL.

MONTEREY, *Junio* 6, 1834.

Traslado a la parte de Juan Alvirez por el termino de tres dias.

FIGUEROA.

EXMO SOR: Las comiciones de colonizacion y terrenos valdios, que conocen en los asuntos de esta materia, y que V. E. a encomendado a ellas; al entrar en el examen del que veran los Ciud's Juan Alvirez y Joaquin Bernal, como aparece del espediente y traslado de ambas partes mente, solre la excencialidad de la sesertada p'r ambas; y habiendo oicto las pretencionss de uno y otro, advierte que por la parte de Juan Alvirez, no obstants no compreuder en diseno el terreno de labores que ahora, occupa, y a veneficiado con saca de agua a su costa; que p'r este echo, ya obta von dro. solre el y amas por haberlo pedido ya en cforma segun su memorial de 12 de Mayo ultimo, esta concesion la creen adejuedec los comiciones p'r lo ya espuesto, en tal vietud, y atendidas las echas por el sor gefe politico, de los terrenos de la saguna Sepa, al repetido Alvirez, conforme su diseno; y el de S'ta Teresa, a C. Bernal como esta, no podra tener ya el efecto que se deja enten-
405 der, en todos sus partes; pror lo ya dicho; las comiciones han creido conveniente por allanar obstaculos, y la cuention promovida presentar como en efecto lo hacen, a la deliberacion de V. E. las sequientes propociciones.

1a. Se aprueva la concecion echa p'r el S. gefe politico, en favor del ciudadano Juan Alvirez, del paroje de ca laguna seca, con el terreno que tiene laforado, y beneficiado hasta oy, con la saca de agua que emprendio a sa cesta.

2a. Se apruela asi mismo la consecion echa G. P'io del Paraje de S'ta Teresa dose unicamente de el, et terreno de labor, que se le adjudica ultimamente al repetido C. Juan Alvirez, seg'n la aprovacion de articulo anterior.

Monterey, 21 de Junio, de 1834.

JOSE CASTRO.

JOSE A. ESTUADILLO.
SANTOS ANTONIO CARRILLO.

EXMO SOR: Las commixiones de colonizacion y terrenos valdios a quien se devolvio el espediente de los C. C. Agustin Bernal y Juan Alvirez, a

efocto de reformar el dictamen que presente en sesion del 3 del cor-
406 riente bien informada de lo practicado hasta la fha y que solre el particular a dictomenado como consta en sesion de 21 del pp'do no duda deber hacer merito de aquel p'r ser en un todo conforme con la mente de la comision sin hacerlo del conbenio que untim'te presentaron los interesados al sor gefe politico y que cambien paso a la commision. En tal airtud presenta a la deliberacion de esta exma disputacion la siguiente proposicion.

Se toma en consideracion el dictamen presentado en 21 del pp'do Junio represente a las solicitudes de terrenos que hacer los C. C. Joaq'n Bernal y Juan Alvirez.

Monterey, de Junio 5, de 1834.

JOSE CASTRO.

JOSE T. ORDEGO.
CARLOS ANTO. CARRILLA.

Dada cuenta a la exma, diputacion en sesion de esta dia con los dictames presentado en 20 de Junio y 5 de Julia, reprovo los dos proposiciones en que concluye el primero cuyo tener es el signiente.

1a. Se aprueva la consecion hecha por. Ciud'o Juan Alvirez del paraye de la laguna seca con el terreno que tiene lavorado y veneficiado hasta hoy con la saca de agua que emprendio a su costo.

407 "2a. Se aprueva asi mismo la consecion hecha per el mismo sor gefe politico del paraje de Santa Teresa en favor del Ciud'no Joaquin Bernal exceptuandose unicamente de el el terreno de labor que se le adjudica ultimamente al repetido ciudadano Juan Alvirez segun la aprovacion del arta anterior."

Yen su consecuencia se devuelve el esped'te al S. gefe superior politico para su curso.

Monterey, Julio 8, de 1834.

JOSE FIGUEROA, *Presidente.*

JOSE MARIA MALDONADO, *S'rio.*

MONTEREY, *Junio* 11, *de* 1834.

En vista del accecrdo de la exma diputacion territorial del dia 8, del corriente dn continuacion de los terrenos de Santa Teresa, el de la laguna seca pretendidos por el ciudadano Joaquin Bernal y el ciudadano Juan Alvirez librese los titulos respectivos, tomese razon en el libro a vue corresponde y entreguese a los interesados para su resguardo y demas fines. El S. Ex. D. Jose Figueroa, general de brigada, comandante general inspector y gefe superior politico del territorio de la alta California, asi lomando
408 dexreto y firmo de que doy fe.

JOSE FIGUEROA.

AUGUSTIN V. ZAMORANO, *S'rio.*

J. H. Figueroa, general de brigada de la republica Mejicana, command'te general insp'r y gefe superior politico del territorio de la Alta Callfornia:

Por cuanto el ciud'no Joaquin Bernal, Mejicano p'r nacimiento ha pretendido p'a su veneficio personal y el de su familia el terreno conocido con el nombre de S'ta Teresa colindante con los ranchos de la laguna seca y Narlaes arroyo del Coyote y Lomas de las Lagrimas y S. Juan practicados previamente las diligencias y averiguaciones con sermintes segun lo dispuesto pr. las Leyes y reglamentos; asando de las facultades que me son conferidos y de conformidad, con el acuerdo de la exma diputacion territorial del dia 8 del corriente aprovando la consecion del titulado terreno de S'ta

Teresa aha en concepcion decreto de 10 de Junio proximo pasado del terreno
que al referido ciudadano Joaquin Bernal con excepcion del terreno
409 que tiene cultivado el ciud'no Juan Alvirez a nombre de la nacion
Mejlcana he venido a conferirle el terreno mencionado declarandole la propiedad en el por las presentes, letras en percuicion del aprove chamiente comun p'r lo respectivo o pasto lena agua madera and delos habitantes del pueblo de San Jose Guadalupe y sajeto a pagar el canon que se le imponga si resultare pertenecer a los ejido de ctha. poplacion cuando se arreglan sus limites, y a las condiciones siguientes:

1a. Que se sometera a los que estableciere el reglamento que se ha de formar pa la distribucion de terreno vaedio y que entretanto ni el agraciado ni sus heredoros podrian aivider ni enyenar el que se le adjudica ; imponer seure ; vinado feanza hinoteca un ono gravumen aung sea por causa piadevea ni pasarlo a manos muertos.

2a. Podra sercarlo sen perjudicar los travesias caminos y servidum-lres lo disfrutari libre y esclusivamente destenandolo al uso y cultivo que mas le acomode ; pero dentro de un ano a le mas fabricara casa y estara habitada.

410 3a. Yolicitara desde luego del juez respectivo lo de aasecior juradica en virtud de este despaco por el cuol se demarcaron los linderos en cuyo limites pohdra a mas de la mohoneras algunos frutales o silvestres de alyuna utilidad.

4a. El Terreno de vue se hace donacion es de una litio de ganado mayor poco mas o menos seyun esplica el diseno y corre en el espediente : el juez que diere la posecion lo hara medir conforme a ordenanza p'a senalar los linderos quedundo el solraute que resulte a la nacicn p'a los usos convenientes.

5a. Si centraviniere a estos condiciones perderu su derecho sl terreno y sera denunciable por otso.

En consecuencia mundo que teniendoss p'r firme y valedero este titulo se tome razon en el libro a que corresponpe y se entregue al interesado p'a sa resguardo y demas fines Dado en Monterey el 11 Julio de 1834.

JOSE FIGUEROA.

AGUSTIN V. ZAMORANO, *Secretario.*

411 Jose Figuero general de brigada de la republica Mejicano comandante
General Inspector y gefe superior politico del territ'o de la Alta California.

Por cuanto Juan Ajviraz Mejicano por nacimiento ha pretendido para su beneficio personal y elde su familia el terreno conocido con el nombre de la laguna seca colindante con los ranchos de s'ta Teresa y s'r Francisco de los Llagos y Sierras laterales practicadas previamente los diligencias y averiguaciones consernientes segun lo dispuesto p'r leyes y reglamentos usando de los facultades con el acuerdo de la exma disputacion territorial del dia 8 del corr'te aprovando la consecion del citadc terreno de la laguna seca y ademos el que tiene cultivado en elparaje de s'ta Teresa, echa en 12 de Junio proximo pasudo, al referido d. Juan Alvirez ; a nombre de la nacion Mejicana he venido en conferirle el terreno mencionado declarandole la propriedad de el por las presentes letras sujeto a pagar el canon que se le eimponga si
resultare pertenecer el terreno que cultiva en el paraje de s'ta Teresa
412 a loyido del pueblo de s'r Jose Guadalupe cuando se arreglen sus limites y a las condiciones; sequientic.

1a. Que se sometera a los que establecere el reglamento que se hade formar para la distribucion de terrenos valdios y que entretanto padran dividir ni engagenar el que se le adjudica : imponer senso vinculo, fianza, hipoteca ni otro gravamen aung, sea p'r cansa piadosa ni pisarlo a manos muertas.

2a. Podra sercarlo sin perjudicar las travecias caminos y servidumbres ;

lo disfrutara libre y esclusivamente destinandolo al uso o cultivo que mas le acomode, pero dentro de un ano a lo mas fabricara casa y estura habitada.

3a. Solicitara desode luego del juez respectivo que se de posecion juridica en virtud de este despacho p'r el cual se demarcaran los linderos en cuyor limites pondra a mas de los mohoneras algunos arboles frutales o silvestres de alyuna utilidad.

4a. El terreno de que se hace mencion esde cuatro sitios de ganado mayor, poco mas o menos seguin esplica el diseno y corre en el espedi-
413 ente : el juez que diere la posecion lo hara medir conforme a ordenanzas para enalar los linderos ; quedundo el sobrante y resulte a la nacion p'a los usos convenientes.

5a. Si contraviniere a estas condiciones perdera su derecho al terreno y sera denunciable p'r otro.

En consecuencia mando que teniendose p'r firme y valedero este titulo se tome razon de el en el libro a que corresponde y se entregue al interesudo p'a su resguardo y demas fines dado en Monterey a veinte dos de Julio de mil o chocientos treinta y cuatro.

JOSE FIGUEROA,

AGUSTIN V. ZAMORANO, *S'rio.*

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Mandeville, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or de-
414 partment of Upper California, as also the papers of the late board of commissioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law, do hereby certify that the 28 preceding and hereunto annexed pages of tracing paper, numbered from one to 48, inclusive, exhibit "1834, N 34 y 37 expredientes sobre los parages nombrados la laguna y Santa Teresa solicitados p'r los C. C. Juan Alvirez y Joaquin Bernal 102," as the same appears on file among said archives.

In testimony whereof, I have hereunto signed my name officially,
[SEAL.] and caused my seal of office to be affixed, at the city of San Francisco, this 7th day of February, 1860.

J. W. MANDEVILLE,
U. S. Surveyor General for California.

Examined and found correct.

R. C. HOPKINS,
Keeper of Archives.

Endorsed : Filed Feb'y 8, 1860.

W. H. CHEVERS, *Clerk.*

415 *Archive testimony No.* 3, *filed by U. S. under stipulation of Nov.* 1, 1859.

1844.

Espediente promovido por el ciudadano Agustin Narvaez en solicitud del terreno nombrado San Juan Bautista.

364.

(Here follows map, page 415,)

416 Exmo s'r comand'te Gral y Gefe politico de hambay Californias:

Agustin Navaiz, vecino del pueblo de San Jose de Guadalupe ; y radicado hace veinte anos en el paraje nombrado antiguam'te el zanchito ; y p'r mi San Juan Bautista, en la mejor forma que le corresponde en derecho ; se presenta y dice. Que el ano de mil ochocientos treinto y siete solicito del s'or governador Don Juan Bautista Alvarado la propiedad del citio citado ; p'r medio deuna instancia acompanada de un diseno, cuya instancia no he concequido su probeido; slano anterior de mil ochocientos treinta y dos, hice mueba instancia en saver el probeido de ello; y no e conseguido hasta esta fecha seme haga saber si es o no, admitida la solicitud que tengo representada; parr cuyo fin eleua a V. E. este suplicatorio para que se me decrete lo que se halle por justo.

417 E S hes numerosa la familia que tengo; mis lienes necesito colocarlos en un paraje propio p'a q si dios se acuerda de me, mi esposa i hijos disfruten de tranquilidad, sin que los perjudiguen; si V. E se compadece de mi ; solo manifestare mis certos servicios servi quince anos, en la hemosa carrera de los misiones de Santa Cruz, Santa Clara, San Jose y la de San Francisco en cuyas se consequi fuesen reconquestados mas de dos mil indijenas amas mis hijos consta p'r varios gefes los he dado a servicio de los Armas E. S. se me fuesen justos estos meritos que represento, espero se me atienda segun V. E. halle p'r combinieute, reclamando mis instancias y saver cual es el fin de que no se me atendido; mas conforme en que V. E. allegado a este disgraciado pais, y que hare jsticia segun su benignidad me a obligado en derecho hacer este reclamo. Por tanto de V. E. rendidamente pido y suplico sedigne acceder a mi solicitud de cuya gracia vivire eternamente reconcide sirviendose admitirme esta en papel comun p'r no haber en este punto del Sello a que corresponde, juro de no ser de malicia en todo lo

418 necesario.

S'n Juan B'ta, Obre, 9 de 1843.

AGUSTIN NARVAEZ.

MONTEREY, Nov. 22 *de* 1843.

Mx'c ch S'or Srio del Despache temased a previamente los q. y si necesitase obligando a la parte a agregar el pleigo de papel selludo q puede comprar aqui.

MICHELTO'A.

Sello cuarto dos reales habilitado provicionalmente por la aduana maritima del puerto de Monterey en el departamento de los Californias para el ano de mil ochocientos cuarenta y tres.

MICHELTORENA.
MANUEL CASTANAREZ.

Habiendo agregado el papel sellado, para este espediente al Juez
[SEAL.] del pueblo de San Jose, p'a q'e informe solbre su contenido; haciendo sitacion a d'n Maximo Martinex p'a q'e esponga solve el partigular lo quese le ofrezca y concluido que sea todo buelva a esta svia p'a dar cumplim'to al sup'r decreto de hay.

Monterey, 22 de Nbve, de 1843.

MAN'L JIMENO.

En virtud del superior decreto que antes se de este juzgado a hecho com pareser a los persenos de d'n Agustin Narvaez y d'n Maximo Martinez los cuales han conbenido en los lineas y seneabamiento de terreno que

419 cada uno se contrae en sus solicitudes mas como este terreno se ha re conocido p'r de la mision enmediata de s'ta Clara el Ministro de de ella, podra decir si se perjudica o no hay inconveniente. Aparte que resulta

en la solicited del interesado que una tersera parte del terreno que solicita es de este pueblo que tiene prestado, el cual no me parece conveniente se posecione hasta tanto se le senalen a este sus limites o ejidos.

Pueblo de S. Jose, Dec'bre 19 de 1843.

SALVIO PACHECO.

EXMO SOR GOVERNADOR: El interesado en la presedente intancia es uno de los primeros pobladores de este pais tiene muchos lienes en el terreno de que have referencia, pues lo ocupa hace mas de 20 anos con consentim to de los antiguos padre ministers de S'ta Clara y de las autoridades del pueblo de San Jose, y si en tanto tiempo no ha conseyuido sus titulos; es a causa del estruviso que por varias veces han padecido sus papeles en poder del mismo interesado, el eual es acreedor a la gracia que pide, tanto por los servicious que es publico ha prestado desde las pundacion de varios misiones, como por la inumerable familia; con solo la restriccion de no comprehen der en la consecion el terreno que han cultivado los becinos del pueblo, por la parte del Sausal Mas la determinacion de V. E. sera la mas asertada.

Monterey, 18 de Enero de 1844.

MAN'L JIMENO.

MONTEREY, *En'o* 12 *de* '44.

En obra de cuestiones en lo venidero y pr. q. quede allanadas todas dificultad impuesto q sea servase informar Al M. R. P. ministro de la mision de Santa Clara y vuelva de este gob departmental.

MICHEL'A.

EXMO SOR GOBERNADOR: Eonsiquente al superior decreto que antecede e instancia del Sor D. Agustin Narvaez, como en ella no se demarcaterre ninguno, y solo so contrae a sus antiguas solicitudes y diceno son que las acompano, cuyos documentos, dice en sustancia no ha berjeledado el provido; delo que se infiere, hallarse aun quisa en la secre'ta de gobierno, en tal concepto, yo no puedo formar una idea justa de cho terreno que se
421 solicita en propiedad p'r. el referido S'ir Narvaez; mas hallandose en el dia levantado el plano de los terrenos de esta mision, el que he mandado a V. E. p'r. el y los antiguos documentos de la parte interesada, creo V. E. podra dirimir este asunto atendiendo a la justicia, meritos, y largos servicios que a'tho. S'ir. tiene prestados en este departmento; pero asimismo atendiendo tambien al derecho de esta mision, que si en otrostiemps tenia terrenos suficientes para sedkr algunos sin perjuicio, en el dia se hallan tan esquilmados que ya casi no cuento con ningunos y mas, estando cuestionados los que aun reconoce p'r suyos esta mison, p'r los S'res, D. Fran'co Estrada y D'n Jose Noriego, qucenes los obtubieron por sorpresa que sin duda se hizo al s'or, antecesor de V. E. D. Juan Bantista Alvarado, quien si hubiese sido mejor imformado, quisa no los habria concedido; mas ya dad este paso con manifiesto perjuicio de los derecho que alegan tener, fundados solo en un titulo obtenido con suprecion en este caso; cuol es la parte de
422 terrenos que se deja a beneficios de etos indigenas, dignos y acredores por tantos titulos a sus tierras, que Dios y naturaliza les ha dado a unos hombres que me atreve decirlo ser las primeras que en el departamento de Californias han prestado en todos tiempos, al gobierno, y a la macion utiles y berdaderos servicios personales y pecunarios. Si exmo s'or, los intereses de los indigenas, como siestos fuesen los unicos ciudadanos en Californias siempre han echo al gov'no sin tasa niguna todo genero de servicio, y muchas, ocaciones aun con sacrificio, merito, que a mi uez no podran alegar en su favor las demas claces que Spre. han sido recompensados pr. el gobierno, el que si algua ves usando del ctro. eminente que es propio a la suprema

autoridad ha puesto alguna contribucion indirecta en este departam'to sin que grave los intereses de los que se dicen cindadanos, estos que los son en verdad, y no el indigena que carece de esta prerogativa, aquellos al momento haciendo alarde de sus sagrados dros. solo se creen acredores a recibir gracias y favores del gobier'no mas nunca con obligacion de elenar, el titulo de tales ciudadanos, sino es en lo que deja o por lo menos pro-
423 mete utilidad; pero en lo que quita, aunque sea med'o real por cuero que se embarque, ya entonces so les presentan tantos principios que no los pneden salvar, no obstante to dos los sagraaos dros. cindadanos; p'r que esto de contribuir solo parece obligatorio a la clase mas infeliz y miserable, cual es el indio.

No hay duda, Exmo S'or, que hay luinos cindadanos en Californias, aun en grado eminente, y quisa uno de estos lo es el S'or D. Agustin Narlaez, acredor ciestamente a que se le atienda en su solicitud, consediendosele no solo la parte que ha ocupado de esta mision, sino tambien el terreno que pertenece a la comunidad del pueblo; pues ct'ho S'or Narvaez, ni es ni ha sido de aguella clase de individuos, que no dejan un memento de reposo al gobierno, en solicitud de terrenos, con perjuicio de sus lejitimos propietarios, pa luego hacer trafico con ellos; seguros, de que habiendo nuevas solicitudes fundados en muchos meritos imaginarios, y por consiguiente faltos de servicios, los que no por eso pierden la esperanza de conseguir otro buen pedaso
424 de tierra que aunque no tenga con que acuparlo; po. siempre deja utilidad con el primer marchante que se presenta.

Me estendido mas de lo que pensaba. V. E. tendra la bondan de disimular la defuso que he sido; mas en defensa de mis encomendados me parece que no ha dicho nada de toda lo espuesto, V. E. con aquella prudencia qe. le es tan propia obrara con justicia lo que halla lugar en derecho.

S'ta Clara, En'o 30, de 1844.

EXMO S'OR FR. JESUS M'A VASQ'Z, *al merced.*

MONTEREY, *M'zo* 1*o de* 1844.

A la sria pa. que haciendo buscar los auricedences, indique la estencion del terreno solicitado, cuando diere el suplicante y la que este pueda conceder en justicia, teniendo presente sus meritos que chinforme anterior del M. R. S. Mtro.

MICHELO'A.

Sello oriento Medio real Habilitado provicionalmente por la aduana
425 maritima del pierto de Monterey, en el departamento de las Califorras para los anos de mil ochocientos curenta y cuatro y mil ochocientos cuarenta y cinco.

MICHELTORENA.
PABLO DE LA GUERRA.

Ad'a marit'a de Mont.

EXM. S'OR GOBERNADOR: En la sria no consta ningunos anteced'tes po. por ioque se ha practicado en este espediente parese que no hay ningun incembeniente para que se le consedan dos sitios de ganado mayor. El sup'or discermin'to de V. E. disyondra lo mejor.

Monterey, 21 de Marzo de 1844.

MAN'L JIMENO.

MONTEREY, *M'zo* 23 *de* 1844.

Conj'l.

MICHELTO'A.

MONTEREY, *Marzo* 30 *de* 1844.

Vista la petibion con que da principio este espediente los informes que

preceden con todo lo demas que se tubo presente y de sercon vino de conformidad con las leyes y reglamentos de la materia, declaro a D'n Agustin Narvaez dueno en propiedad del parage conocido con el nombre de San Juan B'ta colindante con el rancho de los Senores Bernales, con el de Justo
426 Larios, con la sierra con el parage de los Hernandez y el pueblo de San Jose sin pasa del alisal que a este le pertenece, en estencion de dos sitios deganado Mayor. Librese el correspond'te despach tomese razon en el Libro respectivo y direjase este esped'te a lo exma asamblea departamental para su aprobacion. El E. S. gobernador general de brigada del ejercito Mejicano, ayudante general de la plana mayor del mismo, asi omando deoneto y firmo.

El ciudadano Manuel Micheltorena, general brigade de ejercito Mejicano layudante general de la plana mayor del mismo gobernador comandante general inspector del departamento de las Californias :

Por euanto el ciudadano Agustin Navaez ha pretendido para sa beneficio personal y de su familia dos sitios de ganado mayor, dentro del terreno nombrado San Juan Bantista, colindante con el rancho de los Senores Bernales, con el de Juzto Larios, con la sierra con el paraje de los Hernandez,
427 y el pueblo de San Jose, sin pasar del alisal que a este le pertenece practicados previamente las diligencias y avereguaciones concernientes segun lo dispuesto por leyes y reglam'tos usando de las facultades que me son conferidas a nombre de la nacion Mejicana, he benido en concederle el terreno mencionado declarandole la propiedad de el por los presentes letras, sujetandose a la aprovacion de la exma asamblea departamental y bajo las condiciones siguientes :

1a. No podra venderlo, enagenarlo, ni hipotecarlo, imponer, ceuso, vinculo fianza ni otro gravamen alguno.

2a. Podra sercarlo sin perjudicar las travesias caminos y servidumbres, lo disfrutara libre ay esclusivamente deslinandolo al uso o cultivo que mas le acomode, pero dentro de un ano fabricara casa y estara habitada.

3a. Solicitara del juez respectivo que le de posecion juridica en virtud de este despacho por el eual se demarcaran los lindesos en cuyos podra amas de las majoneras algunas arboles frutales o silvestres de alguna utilidad.

4a. El terreno de que se hace donacion es de dos sitios de ganado
428 mayor poco mas o menos segun esplica el diceno respectivo. El jurez que diere la posecion lo hara medir conforme a ordenanza quedando el sobrante que resulte a la nacion para los usos convenientes.

5a. Si contraviniese a estas condiciones perdera su dercho al terreno y sera denunciable por otro. En consecuencia mando que sirviendole de titulo el presente y teniendose pr. firme y valedero, se tome razon de el libro a que corresponde y se entregue a linterezado para su resguardo y demas fines. Dado en Monterey a treinta de M'zo de mil acocientos cuarenta y cuatro.

MANUEL MICHELT'A.

MANUEL JIMENO, *Secretario.*

Queda tomada razon de este despacho en el libro respectivo a fojas 8.

JIMENO.

El amanuese : FRAN'CO ARCE.

OFFICE OF THE SURVEYOR GENERAL OF THE UNITED STATES FOR CALIFORNIA.

I, J. W. Mandeville, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, as also the papers of the late board of com-

missioners to ascertain and settle the private land claims in California, by virtue of the power vested in me by law do hereby certify that the 14 preceding and hereunto annexed pages of tracing paper, numbered from one to 14, inclusive, exhibit a true, full, and correct copy of an original document entitled "1844, Espediente Promovido por el ciudadano Agustin Narvaez en solicitud del terreno nombrado San Juan Bautista 364," as the same appears on file among said archives.

In testimony whereof, I have hereunto signed my name officially,
[SEAL.] and caused my seal of office to be affixed, at the city of San Francisco, this 7th day of February, 1860.

J. W. MANDEVILLE,
U. S. Surveyor General for California.

Examined and found correct.

R. C. HOPKINS,
Keeper of Archives.

430 Endorsed: Filed February 8, 1860.

W. H. CHEVERS, *Clerk.*

431 *Archive testimony No.* 4, *filed by U. S. under stip., Nov.* 1, 1859.

Ejidos.

Ninguna de las indicades poblaciones a excepcion de Monterey, tienen demarcador lor ejido y terrenor de propior que a cada una de las municipalidades debe fijarreles, para que reconorcan su fundo legal, y per cuya por cuya razon el gob'no al hacer las inmediaciones lor ha adja dicado muy provisionalmonte a la espera de dicho arreglo y sobre este particular se hav pedido repetidamente lor informes convenientes. V. E. a la virtu de todo y haciendo uso de la facultad que laes consedidas en la parte 1a. del Arto. 45, de la mencionadas ley y de acuerdo con el gob'no arreglara lo conv ente.

OFFICE OF THE SURVEYOR GENERAL OF THE
UNITED STATES FOR CALIFORNIAS.

I, J. H. Mandeville, surveyor general of the United States for the State of California, and as such having in my office and in my charge and custody a portion of the archives of the former Spanish and Mexican territory or department of Upper California, as also the papers of the late board
432 of commissioners to ascertain and settle the private and claims in California, by virtue of the power vested in me by law, do hereby certify that the one preceding and hereunto annexed page of written paper, number one inclusive, exhibit a true, full, and correct copy of a portion of a book entitled "Legislative Records, vol. III, 1836, 1840," as the same is contained on page 330 of said book, and now appearing on file among said archives, said copy being an extract from the message of Governor Alvarado to the departmental assembly of California for the year 1840.

In witness whereof, I have hereunto signed my name officially,
[SEAL.] and caused my seal of office to be affixed, at the city of San Francisco, this 7th day of February, 1860.

J. H. MANDEVILLE,
U. S. Surveyor General for California.

Examined and found correct.

R. C. HOPKINS,
Keeper of Archives.

Endorsed: Filed Feb'y 8, 1860.

W. H. CHEVERS, *Clerk.*

433 *Translation of archive testimony No* 1.

Proceedings instituted by Joaquin Higuera, petitioning for the place named "Pala."

Third seal. Two reales.

Authorized by the maritime custom-house of Monterey, of Alta California, for the years eighteen hundred and thirty-four and eighteen hundred and thirty-five.

CASTRO.

Petition.

To the senor political chief:

The citizen Joaquin Higuera, before your honor, in due form of law, represents that thirteen years since he obtained permission to build a house in the place known by the name of "Pala," as is shown by the accompanying letter, which is presented for the purpose of obtaining a concession of the said place in accordance with the accompanying diseno and the law of the 18th of August, 1824, representing to your honor that since that date he has improved the same and occupied it with his stock, which ministers to the support of himself and his large family; wherefore he earnestly supplicates that you be pleased to grant him the property of the said place, as he believes it to be just that you should do so, swearing that he proceeds in good faith, &c., etc.

Monterey, October 28th, 1835.

At the request of the interested party who cannot sign his name.

434 *Marginal decree.*

MONTEREY, *October* 28, 1835.

In conformity with the laws on the subject, let the ayuntamiento of the pueblo of San Jose report if the petitioner possesses the necessary qualification to entitle him to be heard in his petition; if the land petitioned for is comprehended within the twenty leagues or the ten "literales" mentioned in the law of the 18th of August, 1824; if it is irrigable, dependant upon the seasons, or suitable for pasturages; if it belongs to the property of any individual, corporation, or pueblo, with all other matters that may seem to throw light on the same. The Senor Don Jose Castro, senior member of the deputation and political chief of Alta California thus ordered, decreed, and signed, which I attest.

JOSE CASTRO.

FRAN'CO DEL CASTELLO,
Negrete, Sec'y.

MONTEREY, *October 28th*, 1835.

Let the interested party be notified to appear at the office of the secretary and make declaration as to who the person was who wrote the said letter, if he still lives, and if Don Pablo Vincente de Sola knew him; when this shall have been done, let the proceedings be had which are required in the foregoing decree.

JOSE CASTRO.

On the same day he was notified.

CASTILLO.

435 *Declaration.*

The letter mentioned in the foregoing writing was written by Jose Antonio Robles at my request, and he lives in the village of , and that Don Pablo Vincente de Sola, governor of this territory, knew him; wherefore he made no objection to writing his of said letter.

In witness whereof, I, Joaquin Higuera, make this declaration, making in the sign of the cross, not knowing how to write, before the secretary of state, in Monterey, on the 28th of October, 1835.

⋈

The foregoing declaration, signed with the sign of the cross, was made by Joaquin Higuera, with whom I am acquainted, to which I certify as secretary of state.

Monterey, October 29th, 1835.

F'CO DEL CASTILLO,
Negrete Secretary.

The ayuntamiento having met in session to-day, a petition of Joaquin Higuera was presented, soliciting the land named "Pala," and in compliance with the superior decree of the senor political chief, the ayuntamiento reports the following: That the said individual possesses the necessary qualifications to entitle him to be heard in his petition; that the land petitioned for is not comprehended within the twenty leagues " ," and is comprehended within the ten "literals;" that it is not irrigable, but is dependant alone upon the seasons, and that it is suitable for pasturage, and that it pertains to the jurisdiction of the pueblo of San Jose de Guadalupe; wherefor the ayuntamiento believes that the said land may be conceded.

Pueblo of San Jose de Guadalupe, November 3rd, 1835.

436 ANTONIO M'A PICO.
YGNACIO MARTINEZ.

JOSE BERREYESA, *Sec'y.*

Letter referred to in petition.

SAN JOSE, *June 8th*, 1822.

VENERATED SIR: I only trouble you to ask that you do me the favor to de upon the memorial I have presented to you, in relation to building a house on the place of "Pala," where I have my sowing grounds, a favor which I hope to receive from the well-known justice of your honor; and in the meanwhile I pray God that your very valuable life may be preserved many years for my protection, and for the protection of all the indigent.

Your most humble serv't, kissing your hands, and obeying your orders.
JOAQUIN HIGUERA.

MONTEREY, *June 6th*, 1822.

The petitioner can construct his house in the place mentioned in the letter without prejudice to the obligation incumbent on him as a resident of the pueblo of San Jose, to which end he will present this order to Sergent Luis Peralta.

SOLA.

Decree of concession.

MONTEREY, *Nov'bre 3rd*, 1835.

In view of the petition with which this expediente the report

of the ayuntamiento of the pueblo of San Jose, in conformity with
437 the laws and regulations upon the subject, I declare Don Joaquin Higuera owner in property of the land known by the name of "Pala," subject to the conditions that may be stipulated. Let this expediente be reserved for presentation to the excellent deputacion, and let the corresponding dispatch be issued, which shall serve the interested party as a title, to whom this decree will be made known. The Senor Don Jose Castro, senior member of the excellent deputation, and political chief in term of Alta California, thus ordered, decreed, and signed, which I attest.

JOSE CASTRO.

F'co Castillo, *Negrete Sec'y.*

The committee on vacant lands having examined the expediente in which the citizen Joaquin Higuera petitions for the lands named "Pala," in the jurisdiction of this pueblo of San Jose, and not finding anything objectionable in it, the same being in all things conformable to the law of the 18th of August, 1824, and to article 5 of the regulation of colonization, as shown by the foregoing reports, it therefore submits for the deliberation of your excellency the foregoing proposition.

The concession made to Joaquin Higuera on the 5th of Nov'bre, 1835, of the land named "Pala," subject to the conditions that are stipulated, and to pay the taxes in case it should pertain to the "Poblacion."

Monterey, Dec'bre 5th, 1835.

SALIN PACHECO.

Monterey, *Dec'bre 10th*, 1835.

The most excellent deputation, in the session of to-day, approved the foregoing report, ordering the expediente to be returned to the political chief for the necessary ends.

JUAN B. ALVARADO.

In view of the approval made on the 10th of the past month by the most excellent territorial deputation, let a certificate of the same and of this decree be issued to Joaquin Higuera in confirmation of the concession of the land known by the name of "Pala," which he obtained on the 5th of December of the present year. The Senor Don Jose Castro, member of the territorial deputation and political chief in term, thus ordered, decreed, and signed, which I attest.

JOSE CASTRO.

Certificate has been issued to him.

F'CO DEL CASTILLO,
Negrete Sec'y.

439 *Translation of archive testimony No.* 2.

1834. N. 34 and 29.

Documents relative to the places named the Laguna and Santa Teresa, solicited by the citizens Juan Alvirez and Joaquin Bernal.

102.

Jurisdiction of the town of San Jose, A. D. 1834.

Document relative to place called the Laguna, solicited by Juan Alvirez.

Monterey, *May* 14, 1834.

Solicit the antecedents, collect, and afterwards report for decision.

FIGUEROA.

Senor superior political chief:

In compliance with the preceding decree of your excellency, I return this with the previous proceedings thus brought together.

Monterey, May 15th, 1834.

AGUSTIN V. ZAMORANA.

Third seal. Two reals.

Provisionally empowered by the maritime custom-house of Monterey, for the years eighteen hundred and thirty-three and eighteen hundred and thirty four.

440 FIGUEROA.
JOSE RAFAEL GONZALEZ.

To the superior political chief:

The citizen Juan Alvirez, inhabitant of the town of San Jose Guadalupe, presents himself before you with due respect, and presents that on the 30th July, 1826, I solicited the political government of this territory, for a residence known by the title of the Laguna, which I actually occupy with my goods and industry.

On the 18th of July, 1830, I renewed my demand, accompanied with a map according to the law of 21st November, 1828, and up to date have had no decision; in the aforesaid design or map I did not include a short piece of land which contains a watering place, that recently, by my labor, I have introduced from the said lake. I beseech you, likewise, to allow me that which is occupied by said watering place. I supplicate your excellency to accede to my before-mentioned request, in order that I should acquire possession of the property on the before-mentioned lands.

Monterey, May 12th, 1834.

JUAN ALVIREZ.

441 Seal fourth. One quartilla.

Provisionally empowered by the Mexican republic for the years 1825 and 1826 in the territories of California.

HERRERA, *The Superior Chief.*

The citizen Juan Alvirez, constitutional alcalde and recorder of the town of San Jose Guadalupe under your authority, with the most profound respect and subordination which is due to you, appears, and says that three years since he solicited a residence as a ranch, or an establishment for cattle and cultivation, which is called the Laguna, distant from the town four leagues, more or less, and the decree of your predecessor to my request, it not being to the injury of the inhabitants of said town, which individuals of said town might say that it would not be proper to grant this petition, as they might not be accommodated, an interest motive, they having been also benefited as well as myself; and considering that neither I myself nor they are distinguished for a sufficiency of property to stock said place, I make the petition anew to the superior prudence of your excellency,
442 to facilitate me with the permission to place upon said premises an establishment for ganado mayor, horses, and sowing seeds. Wherefore, I humbly supplicate that you will approve of this my request, a favor which I hope to be grateful for to your accredited benignity, and for which I will be thankful.

B. S. M., your ob't s'v't

Pueblo de San Jose Guadalupe, 30th June, 1826.

JUAN ALVIRES.

[Seal of the Mexican republic]

Provisionally empowered for the years 1830 and 1831.

CASARIN.

[Place of a stamp on the original for the years 1828 and 1829.]

Superior political chief:

The citizen Juan Alvires, present alcalde of the town of San Jose Guadalupe, presents himself before you with due respect, and states that since the year 1826 he directed to your excellency a request, seeking possession of the place called the Laguna, which is in the intendance of said town, and which he has supplied since the year 1823, with previous comments
443 to the ayuntamiento which at that time existed; but complying now with the laws established, I transmit to your excellency the accompanying design as directed by Art. 2d of the colonial regulations, in order that you should dispose of it in a suitable manner.

I beg that you will act in such a manner as shall be found suitable to make me the recipient of your favor and grace.

Monterey, 18th July, 1830.

JUAN ALVIRES.

[Place of a stamp on the original.]

Empowered by the administration for the years 1834 and '35.

MONTEREY, *May* 16, 1834.

In conformity with the laws in the matter of which the illustrious ayuntamiento of the town of San Jose stands informed, if the contained plan in this instance possess all the requisites necessary to insure the request, if the land which it is pretended is comprised within the twenty leagues limiting it, or ten litorals, as expressed in the law of the 18th of August, 1824; if it is watered by rains or watering places, if it belongs to any particu-
444 lar person, corporation, mission or town, with everything else that may be necessary to illustrate the subject. Senor Don Jose Figueroa, general of brigade, inspector an commandant general, and superior political chief of the territory of Alta California, then orders his decree and signature, of which I give earnest.

JOSE FIGUEROA.
AGUSTIN V. ZAMORANA, *Sec.*

The interested person in this instance obtains or performs the prescribed rights in order that he succeed in his request. The land which it is pretended to is not comprised in the twenty leagues, nor ten litorals, as expressed in the law of the 18th of August, 1824. The seat is secular, and is bounded by the outlet of the lake and the spring of La Cochi from the east to the west, from hill to hill in breadth. The limits laid down in this request should not be recognized, as it was an error.

The land which he solicits belongs to this jurisdiction, distant from the town from four to five leagues, the cultivated lands which are embraced in his claim, and which he cultivates are irrigated and belong to the seat
445 of Santa Teresa, which lands have a watering place from the same lagoon.

Town of San Jose, 29th May, 1834.

PEDRO ARABAJA, *Prefect.*
MAXIMO MARTINEZ.

MONTEREY, *June 10th*, 1834.

Passed to the alcalde of this capital before whom Juan Alvires, on his part will produce three suitable witnesses, who shall be interrogated on the following points:

1st. If he is a Mexican citizen by birth, if he is married and has children, if he is of good character.

2d. If the land he desires belongs to any person, mission, corporation, or town, if it is irrigated, subject to rains, or if it possesses watering places for cattle, and of what dimensions or extent it is; if he has means with which to acquire them. These necessaries being complied with, return his demand for his deliberation. Senor Don Jose Figueroa, general of brigade, commandant general and superior political chief of Alta California, thus decrees and signs.

JOSE FIGUEROA.
AUGUSTIN ZAMORANA, *Sec.*

446 Third seal. Two reals.

Provisionally empowered by the custom-house at Monterey for the years eighteen hundred and thirty-four and eighteen hundred and thirty-five.

FIGUEROA.
RAFAEL GONZALES.

MONTEREY, 11*th June*, 1834.

In compliance with the superior decree which emanated from the superior political chief on date of the 10th of the present month, that the information of three suitable witnesses should be taken, and that they should be interrogated on the three points mentioned in the said superior decree. Thus I, the constitutional alcalde, decree it, and sign with the witnesses of assistance, witness my hand.

MANUEL JIMENO.
CASARIN.

Assistant: JOSE R. ESTRADA.
Assistant: MARCELINO ESCABAN.

On this date Juan Alvires, being notified, appeared before me and said, heard and understood the preceding, and signed with me and the witnesses of assistance.

CASARIN.
JUAN ALVIRES.

Assistant: JOSE R. ESTRADA.
Assistant: MARCELINO ESCOBAN.

447 In the present date Don Jose Tiburcio Castro was received according to due form, and being sworn, testified as to what he might know; and being asked and questioned as to his name, occupation, condition, age, country, and religion, replied: he is called as stated, is a laborer, married, thirty years of age, native of the State of Guasabe, and is a Roman Catholic. He was questioned on the three points mentioned in the said superior decree of the superior political chief, on the 10th of the present month, replied: knows Juan Alvires, he is a Mexican by birth, he is a married man and has children, he is of good conduct; he likewise knows the land which said Alvires claims, that it does not belong to the property of any person, mission, corporation, nor to the town, from which it is distant about four or five leagues; they are occupied by himself; that said lands are watered by irrigation, and not by rains, that it has watering places for cattle, and is in extent a little more than two leagues; that finally, said Alvires has stock wherewith to stock it. That the above is the truth
448 which he has stated, and to which he swears; which declaration he

ratified and affirmed by his signature before me, and the witnesses of assistance.

CASARIN.
JOSE TIBURCIO DE CASTRO.

Assistant: JOSE R. ESTRADA.
Assistant: MARCELINO ESCOBAN.

Seal third. Two reals.

Provisionally empowered by the custom-house at Monterey for the years 1834 and 1845.

FIGUEROA.
RAFAEL GONZALES.

This day appeared before me in due form Don Carlos Castro, who testified as follows: being questioned and asked as to his occupation, name, condition, age, country, and religion, replied: that he is called as stated, that he is a laborer, sixty years of age, a native of Sonora, and a Roman Catholic. On being interrogated on the points mentioned in the superior decree of the superior political chief, dated the 10th of the present month, said: that Juan Alvires is a Mexican citizen by birth, that he is married, has children, and is of good conduct; that the land solicited by said Alvires does
449 not belong to the property of any particular person, mission, nor corporation.

That said lands are irrigated, that they are subject to rains, and have watering places for cattle, that they are in extent a little more than two leagues; finally, that said Alvires has stock to stock it with, that the foregoing is the truth, being on oath, and he hereby ratifies and affirms his declaration with his signature, which he attaches in presence of myself and the witnesses of assistance.

CARLOS CASTRO.
CASARIN.

Assistant: JOSE R. ESTRADA.
Assistant: MARCELINO ESCOBAN.

This day appeared before me in due form Don Salvio Pacheo, who testified as follows: being questioned and asked as to his name, occupation, age, country, and religion said: That his name is as before mentioned, married, a laborer, thirty-nine years old, a native of this town, and a Roman Catholic. Being interrogated on the three points mentioned in the aforesaid superior decree of the superior political chief, of date 10th of the
450 present month, said that Don Alvires is a Mexican citizen by birth, is married, has children, and is of good conduct; that the land which said Alvires solicits is not the property of any individual, mission, corporation, or town; that it is watered by irrigation, rains, and has watering places for cattle, and that it is two leagues in extent, a little more or less; that finally, said Alvires has goods in cattle with which to stock it; that the foregoing is the truth, he being mindful of the oath he has taken, and affirms and ratifies this his declaration, and signs it with me and the witnesses of assistance.

CASARIN.
SALVEO PACHEO.

Assistant: JOSE R. ESTRADA.
Assistant: MARCELINO ESCOBAN.

Seal third. Two reals.

Provisionally empowered by the custom-house at Monterey for the years eighteen hundred and thirty-four and thirty-five.

FIGUEROA.
RAFAEL GONZALES.

Monterey, June 11, 1834.

These duties being discharged, I return the expedient to the superior political chief for his resolution. Thus I, the constitutional alcalde,
451 decree and order, and sign with the witnesses of assistance.

CASARIN.

Assistant: JOSE R. ESTRADA.
Assistant: MARCELINO ESCOBAR.
Monterey, June 12, 1834.

Viewed the petition by which this expedient gives the preliminaries to the information of the municipal authorities of the town of San Jose Gaudalupe, the expositions of the witnesses to all that was or may be in accordance, in conformity to the laws and regulations appertaining to this matter, we declare Juan Alvires owner and proprietor of the lands known by the name of the Laguna, lying by the side of the ranchos of San Francisco de las Magas y Santa Teresa and lateral sierras or mountain ranges. This dispatch is directed to the most excellent deputation for their due approbation.

Don Jose Figueroa, general of brigade commanding, inspector general, and superior political chief of Alta California, thus decrees and commands, and signs.

JOSE FIGUEROA.
AUGUSTIN V. ZAMORANO, *Sec'y.*

452 MONTEREY, 14 *June* 1854.

In the session of this day it was agreed by the most excellent deputation to lay this expedient before the united commission of olonization and entitled lands.

JOSE FIGUEROA.

MONTEREY, *June* 6, 1834.

Deliver this at the door of Joaquin Bernal by the end of three days.

FIGUEROA.

Third seal. Two reals.

Provisionally empowered by the custom-house at Monterey for the years 1834 and 1835.

FIGUEROA.
RAFAEL GONZALES.

The superior political chief:

The citizen, Juan Alvires, living near the town of San Jose, according to his right, respectfully presents to you that in the year 1823 he obtained permission for Don Louis Antonio Arguello, fully empowered by civil decree to establish himself in the property called the Laguna, it being that
453 which he actually occupies, lying contiguous to that of the citizen, Joaquin Bernal, to whom I, being alcalde of said town for the year 1826, granted permission to put his cattle separate from that of the commu-

nity on the lands of Santa Teresa until he obtained his suit, the intent of which was in effect ceded to him, more by virtue of my knowing that Bernal sought proprietorship of Santa Teresa, the design of which embraces my labors and resources of water, from which I draw my subsistence.

For this individual, who desires to dispossess me of a right which I have acquired by means of costly sacrifices, is not worthy of gaining his ends in the way that he wishes to persecute me. I request that your excellency will operate with due justice in this matter, and as you may deem it.

Monterey, June 5, 1834.

JUAN ALVIREZ.

Seal third. Two reals.

Provided provisionally for the marine custom-house at Monterey for the years 1834 and 35.

FIGUEROA.
RAFAEL GONZALES.

454 Senor general commandant and superior civil chief:

Joaquin Bernal, in defense of his rights and in answer to the contents of the representation of S. Juan Alvires, which your honor was pleased to copy for me, dated 6th of the present month, respectfully appears before your honor and says:

Senor Alvires himself in the above-mentioned representation has found himself obliged to confess two things very favorable to my claim; the first, that the estate which he obtained through D. Louis Arguello is Laguna Seca, which he actually occupies, and which is adjacent to the lands occupied by one; the second, that he himself, being alcalde of the pueblo of San Jose in the year of 1826, gave me permission to separate my property from
455 the community and place it on the lands called Santa Teresa. Thus far we have lived harmony; but now, Senor Alvires, not contented with the tract of land granted to him, after taking violent possession of a part of the lands which I have peaceably possessed for so many years, accuses me of wishing to dispoil him of his property, it being most certain that the lands where his corn-fields are situated belongs to Santa Teresa, and in no way to Laguna Seca; and also it is notorious and public that he has not made use of nor laid claim to said lands until last year, when he took them by force, in spite of my remonstrances. The heavy outlays which Senor Alvirez alleges to have made on the lands in question, deserve in my opinion, rather punishment than reward, for by them he has attempted to take by force the property of another, and to injure without any necessity (for arrable land is not wanting on his own rancho,) a peaceable neighbor, who never injured him.

From all this explanation I flatter myself, sir, that your honor will
456 see clearly that I seek nothing unjust, nor do I wish to injure Senor Alvirez, but the land in question, besides that it belongs to Santa Teresa, I stand greatly in need of, and should it be granted to Senor Alvires, I forsee the most disastrous results; for I should have to abandon the farm which I occupy and on which I have expended so much, (for there are already built four adobe houses, and two others commenced, a garden, numerous fruit trees, a vineyard, &c.,) in order not to be drawn into incessant litigation.

And therefor, I humbly beg your honor that you see fit to order that Senor Alvirez shall content himself with his own, and shall leave me in quiet pos-

session of the land which he has usurped, protesting that I do not act from malice, and whatever else necessary.

Monterey, 12 June 1834.

At the request of the party interested.

(Signed) WM. ED. HARTWELL.

MONTEREY, *June 16th*, 1834.

Let this account be given into the M. E. territorial deputation and added to the instrument provided by Juan Alvires in his petition for the rancho of Laguna.

SECA.
FIGUEROA.

MONTEREY, *17th June*, 1834.

In session this day it was voted that it be passed to the commissioners of colonization and unclaimed lands.

FIGUEROA.

Senor superior civil chief:

I, citizen Juan Alvirez, of the pueblo of San Jose Gaudalupe, owner
457 of the lands called Laguna Seca, present myself before your honor on account of what the citizen Joaquin Bernal alleges the fourth of the present month, in the question he has brought up, complaining that I have intruded on the limits of Santa Teresa which belongs to him, and say that the said individual has absolutely no reason to complain of being dispoiled, for I believe that in nothing have I deprived him of lands belonging to him. The rancho of Santa Teresa has never had its boundaries established by any authority, and consequently hitherto he can claim no further extent to his property than the boundaries he has cultivated or occupied with his goods. No one can be a better witness than myself, for being alcalde in the year 1823 I permitted him to occupy this farm temporarily with his goods, until he should obtain the tract of Ingerto, which I know positively was granted to him in the time of Don Louis Arguello, and as it not please him he continued to occupy the first. This is the origin of the litigation concerning the said land; y until this date he has occupied it with only a per-
458 mission, in granting which for which for the benefit of his family I exposed myself to responsibility, not being invested with powers of disposing arbitrarily of the lands of the public; and therefore in making my improvements I believed I had as good a right as the said Senor Bernal, and for my benefit I made a trench for water, which has been a great advantage to me, as in the rest of the tract for which I have petitioned there are no irrigated grounds. Senor Bernal says that I have threatened him when he has met me; and in this he speaks falsely, for never has such a thing passed between me and the old man. I will not deny that I have fought with a son-in-law of his, S'r Don Antonio Sunol, but that dispute had another origin entirely distinct, and until now I have treated him with forbearance. Your honor will please take into consideration what I have said in this explanation, and notice the injuries I shall suffer if disappointed in my petition, losing a small piece of ground which I have improved at a great expense for my support.

Seal third. Two reals.

459 Wherefor I beg your honor to that you please notice this explanation and decide as justice may point out. Swearing that I am not actuated by malice and as otherwise prescribed.

Monterey, June 12, 1834.

(Signed) JUAN ALVIREZ.

MONTEREY, *June* 14, 1834.

Let it presented to the u. excellent deputation and added to the instrument in course of compilation by Joaquin Bernal in his petition for the rancho of Santa Teresa.

FIGUEROA.

MONTEREY, *June* 17, 1834.

In session this day it was voted that it be passed to the commissioners of colonization and unclaimed lands.

FIGUEROA.

Instrument concerning the rancho called Santa Teresa.

JURISDICTION OF S. JOSE GUADALUPE, YEAR 1834.

Don Joaquin Vernal petitions for legal possession. Seal 4th, 1 cuarto.

460 Senor superior civil chief:

The citizen Joaquin Bernal, invalid, of the compay of San Francisco, in full form presents himself before your honor, and says that five years ago the g. ayuntamiento of the pueblo of San Jose granted me a farm within their jurisdiction, called and known by the name of Santa Teresa, the geographical description of which I send herewith. In consequence of said permission I took possession of said farm, security myself therein, with the goods and securities below related, enjoying peaceable possession until the present time. In attention to the well-being of my numerous family, and the greater security of my property, I have repeatedly applied

461 to the predecessors of your honor for a legal grant of the land, without any definite determination having been made. I hasten to entreat of the well-known uprightness of your honor that you will be pleased to grant me the lawful ownership of the rancho of Santa Teresa, in reward for his services to the nation, the amount of his property, and his numerous family, which lives thereon, and that there may be stronger motives for them to make improvements and cherish other branches of industry. I find myself at the advanced age of seventy-four years, with a posterity of seventy-eight souls, who reside on the said farm, where have been built four adobe houses and planted a vineyard of one thousand stocks,

462 and a garden containing more than two hundred fruit trees. My field property is as follows: Two thousand one hundred head of cattle, one hundred and twenty head of sheep, three herds of mares, fifty tame horses, twenty-two yoke of oxen, and five mules, all of which occupy the often-mentioned farm of Santa Teresa. And I place these particulars under your knowledge that you may be pleased to send up my petition to the m. excellent deputation, and that they may think fit to grant me the ownership for which I petition in case of being approved for it. Therefore, I again entreat that you will see fit to provide as I have petitioned, which is the favor I ask, &c.

Pueblo de San Jose, May 10, 1834.

JOAQUIN BERNAL.

MONTEREY, *May* 14, 1834.

In conformity to the law in such cases, the counsel of the pueblo of San Jose will inform me if the party interested in the present case has the proper requisites that his petition be attended to; if the tract which he asks for is included in the 20 fronties (limitrofes) leagues on the shore, (litorales,) leagues which the law of the 18th of May, 1824, expresses, if it

is watered by irrigation, by rain, or by watering-holes; if it belongs to the property of any private individual, corporation, mission, or pueblo, with any other information which may be thought to bear upon or illustrate the matter, announcing to the present party the plan of the land petitioned for. Senor D. Jose Figueroa, brigadier general, commandant general, and superior civil chief of the territory of Upper California, so ordered, decreed, and signed.

Witness: JOSE FIGUEROA.
AUGUSTIN V. ZAMORANO, *Sec'y.*

PUEBLO DE SAN JOSE, *May* 19, 1834.

The citizen Joaquin Bernal, the party interested in this case, and all the inhabitants of the rancho of Santa Teresa, have all the requisites prescribed by law. The farm is not included in the limits named in the act of August 18, 1824, but belongs to the jurisdiction of this pueblo, and is distant from its nearest boundary two leagues; it is one league broad in its
463 widest part, and one league and a quarter long, that is to say, from the hill of Las Lagrimas to the pass of the Laguna. The petitioner owns more than two thousand head of cattle and a considerable number of sheep and horses, and has built good houses, and others are in the course of erection; and, finally, he has the merit of having planted a vineyard and orchards, with the small help of a little spring near the house, all the rest of the estate being watered only by the weather. And that it shall appear as it should, I affix my hand with the first regidor of this council, in the want of a secretary.

MAXIMO MARTINEZ.
PEDRO CHABOYA.

MONTEREY, *May* 24, 1834.

Let there be issued to the alcalde of this capital a writ that the party Joaquin Bernal shall produce testimony of three fit witnesses, who shall be examined on the following points:

First. If the petitioner is a Mexican citizen by birth; whether he is married, and has children.

Second. Whether he is of good character.

464 *Second.* Whether the lands he claims are the property of any individual, mission, pueblo, or corporation; if it is watered by irrigation, by rain, or from watering places for cattle.

Third. Whether he has stock with which to occupy it, or possibility of obtaining such.

And such investigation having been made, let the instrument be returned for his disposition. Senor Don Jose Figueroa, general of brigade, inspector general, commandant and superior civil chief of the territory of Upper California, so commanded, decreed, and signed.

Witness: JOSE FIGUEROA.

Senor alcalde constitucional:

The citizen Agostin Bernal, in the name of his father, Joaquin Bernal, presents himself before you with due respect, and says that, not having been able until now to obtain legal possession of the rancho
465 of Santa Teresa, which perhaps has happened from the omission of the necessary form of an exact description of the expressed tract, I apply to you that you may please to give a geographical description of the situation of the aforenamed lands, for which I beg that you

will please to work in this my petition as may be for its better further ance, going on stamped paper, as there is none of any kind in this place.

Pueblo of San Jose, May 13, 1834.

AUGUSTIN BERNAL.

PUEBLO OF S. JOSE, *May* 13, 1834.

The farm called Santa Teresa, belonging to the jurisdiction of this pueblo and occupied by the interested party, has for boundaries from the south to north the pass of the Laguna and the hill of Las Lagrimus, and is six thousand varas wide. Its length is from the western hills, where the birds' roost are, to the first hills to the east; and that which the interested party occupies comprises one league, by grant of this ayuntimiento, without prejudice to this pueblo.

PEDRO ARABOYA.

MONTEREY, *May* 26, 1834.

In obedience to the above decree of the senor superior civic chief, dated the 24th of the current month, let them take the testimony of three fit witnesses, who shall be examined concerning the points mentioned therein. So I, the alcalde constitucional, decreed, ordered, and signed, with the assisting witnesses, with whom I proceed in the established form.

466

CASARIN.

Witness: MANUEL JUNLUM.
JOSE MARIA CASTANARES.
JOSE R. ESTRADA.

On the same day the writ was communicated to Joaquin Bernal. After having understood it, he said he heard it, and did not sign, not knowing how. I did, and my assisting witnesses.

CASARIN.

Witness: JOSE MARIA CASTANARES.
JOSE R. ESTRADA.

On the same day Don Jose Joaquin Estudillo took oath in all form of law, by which he offered to speak the truth to the best of his knowledge, and that he should be asked concerning his name, circumstances, age, country, and religion, and having been so, he answered: He is called as above, is married, is thirty-four years old, a native of this post of Monterey, and of the Cath. Apos. Roman church. Being examined on the three points which said decree mentions, said that he knows the citizen Joaquin Bernal; that he is Mexican by birth, is married, and has children, and is of very good character; that he also knows the land to which said Bernal lays claim; that it does not form part of the property of any individual, mission, pueblo, or corporation; that said lands are not watered by irrigation, but by rains and watering holes; and that their extent is about two leagues; and that said Bernal has sufficient with which to occupy, his outdoor property being enough for the tract petitioned for; and that the above is the truth, in virtue of the oath taken, in which he was ratified. His above declaration having been read to him, and he affixed his name hand me and two assistants.

467

CASARIN.

Witness: JOSE MARIA CASTANARES.
JOSE R. ESTRADA.

On the same date the neighbor Vicente Cautna took oath in full form of

law, by which he offered to speak the truth to the best of his knowl-
468 edge, and that he should be asked concerning his name, circumstances, age, country, and religion, and having been so, he said that he is called as above; that he is married, is forty-three years old, a native of this port of Monterey, and C. A. R. Being examined on the three points prescribed by the above decree of the senor civil chief, dated the twenty-fourth of the current month, he said that he knows the citizen Joaquin Bernal; that he is Mexican by birth, is married, and has children, and is of good character; that he also knows the land to which said Bernal lays claim; that it does not form part of the property of any individual, mission, pueblo, or corporation; is not watered by irrigation, but by the rains and from watering places for cattle, and that its extent is a little more than two leagues; that the aforementioned Bernal has sufficient out-door property with which to occupy it; that the above is the truth, in virtue of his oath, in which he was confirmed and ratified. This his declaration having been read and he did not sign, as he said he did know how, I did so, with my assistants.

CASARIN.

Witness: JOSE MARIA CASTANARES.
JOSE R. ESTRADA.

On the same day the neighbor Mariano Duate took oath in full form of law, by which he promised to speak the truth to the best of his knowledge, that he should be asked concerning his name, circumstances, age, country, and religion; and having been so, he said that he is called as above, is married, is fifty-seven years old, a native of this port of Monterey, and of the Catholic Apos. Roman church. Being examined on three points prescribed in the decree of the senor civil chief, dated the twenty-fourth of the current month, he said that he knows the citizen Joaquin Bernal; that he is Mexican by birth, is married, has children, and is of good character. That he also knows the land to which said Bernal lays claim, and that it does not form part of the property of any individual, mission, pueblo, or corporation,
is not watered by irrigation, but by the rains and from watering
470 holes for cattle, and its extent is about two leagues; that said Bernal has sufficient out-door goods with which to stock it; that the above is the truth in virtue of his oath in which he was confirmed and ratified. This his declaration having been read, and he signed it with me and the assisting witnesses.

CASARIN.
MARIANO DUARTE.

Witness: JOSE R. ESTRADA.
JOSE MARIA CASTANARES.

MONTEREY, *May* 27, 1834.

These despatches having been finished, return the instrument to the senor superior civil chief for his disposition. So I, the alcalde constitucional, decreed, ordered, and signed, with my assistants.

Witness: CASARIN.
Ass't: JOSE MARIA CASTANARES.
Ass't: JOSE R. ESTRADA.

MONTEREY, *June* 10, 1834.

Having examined the petition which stands at the head of this instru-

ment, the certificate of the municipal authority of the pueblo of San
471 Jose de Guadalupe, the declaration of the witness, with all the rest which were presented and necessary, in conformity with the requirements of the laws and regulations in the matter, there is declared to Don Joaquin Bernal a plan of the land known by the name of Santa Teresa, next to the rancho de la Laguna, the hill of San Juan, and the lateral chain of hills, without prejudice to the public benefit as regards pasturage, wood, timber, &c., of the inhabitants of the pueblo of San Jose, and subject to pay such sum as may be imposed if it should be ascertained to belong to the inhabitants of said pueblo when its boundaries are regulated. Let this instrument be presented to the M. E. deputation for the required approval.

Senor Don Jose Figueroa, general of brigade, inspector general, commandant, and superior civil chief of Alta California, so commanded, decreed, and signed.

Witness: JOSE FIGUEROA.
AUGUSTIN V. ZAMORANO, *Sec'y.*

472 MONTEREY, *June* 12, 1834.

In session this day the M. E. deputation voted that this instrument be passed over to the commission of unclaimed lands.

FIGUEROA.

Senor comm't general and sup'r civil chief:

Joaquin Bernal, invalid soldier of the company of San Francisco, living in the rancho of Santa Teresa, in his own name and that of his children, respectfully presents to your honor that on the 4th and 12th of the present month he presented himself to your honor's highness, showing the injury he suffered in S. Juan Alvirez having intruded on his land on his own authority; and now he, knowing which has been granted him by your honor or the M. Ex. deputation, he cannot do less than I present to you that it is the only watering place that there is on his land, and that there are
473 more than enough lands for corn and fields for cit'n Alvirez on his own property, so that he has petitioned you out of pure greediness to despoil me of what is legitimately mine, and it is indispensable for me to represent to you the great number of my children, children-in-law, and grandchildren, such that in a short time it will not be a rancho, but a pueblo, and so, senor, as your honor knows, the injury done me if this watering place is taken from me. May it please you to take into consideration the quantity of cattle with which I find myself, as well as the number of people which inhabits my rancho. Therefore, I entreat and beg your honor that this my petition may be graciously taken into consideration, and that I may receive favor and mercy.

Monterey, June 28, 1834.

ST JOAQUIN BERNAL.

MONTEREY, *June* 28, 1834.

In session this day it was ordered to pass this petition to the same commission as the preceding.

FIGUEROA.

Senor comm't general and sup'r civil chief:

474 Joaquin Bernal, native of the State of Sinalo, and a settler in this Territory of fifty-five years standing, present myself with due respect before your honor, and say that, being in possession of the rancho called Santa Teresa since the year 1829, as the plan in the hand of your honor shows, and said

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ancho being adjacent to that of citizen Alvirez, said Alvirez, although having been remonstrated with by me at various times that he should not take for himself land of that belonging to me, has always insisted on carrying forward his own idea, with several threats, sufficient to disturb the quiet of my family, and some disturbance, as I can prove before your honor. Therefore, and knowing your honor's obligation to preserve peace among the inhabitants of this territory, by means of your well-known prudence, may it seem fit that the said Alvirez may cease to disturb my property, con-
475 fining himself to what alone belongs to him. Otherwise, senor and superior chief, we expose ourselves to trouble your attention, prejudicial to both, by his unjust threats. Therefore, I again beg your honor that in my submission of what I represent you may graciously decree as your wise penetration may see fit in accordance with justice, which favor I hope from your well-known goodness. All which I swear is not from malice, and otherwise as necessary, &c.

Monterey, June 4, 1834.

JOAQUIN BERNAL.

MON'Y, *June* 6, 1834.

Present to the party Juan Alvirez for the term of three days.

FIGUEROA.

Most excellent senor:

The commissioners of colonization and vacant lands, who are acquainted with the points of this matter, and, as your ex'y has intrus ed to them, on proceeding to the examination of the case between citizens Juan Alvirez and Joaquin Bernal, as appears in the dispatch and copy of both parties in question, has considered attentively the points of law of each party, and having seen the pretensions of both, consider that on the part of Don
476 Alvirez, although his plan does not include the parcel of ground under cultivation and fertilized by a trench of water at his expense, which he occupies, yet, for having done this, he already obtains a right to it; and, moreover, for having now petitioned in form as appears in his memorial of the 12th May last, and this grant the commissioners is inclined to accede to, for the reason above expressed, bearing in mind the grants made by the senor sup'r civil chief, of the estates of Laguna Seca to said Alvirez according to his plan, and of Santa Teresa to cit'n Bernal. As it is, the effect which is left to be understood cannot hold in all its parts for what has been said. The commissioners have thought best to smooth over all obstacles, and to present the question advanced to the deliberation your ex'y, as in effect they do in the following propositions:

1st. The grant is approved made by the senor civil chief in favor of citizen Don Alvirez, of the lands of Laguna Seca, together with the par-
477 cel of ground which he has under cultivation and watered to this date by the trench of water which he undertook at his own expense.

2d. Is approved, also, the grant made (paper torn) of the lands of Santa Teresa (paper torn off) withholding from him only the parcel of improved land adjudged finally to the said citizen Don Alvirez, according to the approbation of the preceding article.

Monterey, 21 June, 1834.

JOSE A. ESTUDILLO.
CARLOS ANT'O CARRILLO.
JOSE CASTRO.

Most excellent sir:

The commissioners of colonization and vacant lands, to whom was referred the despatch of citizens Agustin Bernal and Juan Alvirez, for the purpose of amending the decision which it presented at the session of the 3d of the

current month, well informed of what has been done up to this time, and that it has decided concerning the particular case as appears at the session of the 21st of last month, do not doubt that it ought to ap-
478 prove that as being in everything in accordance with the mind of the commissioners, without doing it from the agreement which the interested parties finally presented to the senor civil chief, and which also passed to the commission. Therefore, it presents to the most excellent deputation for their deliberation the following proposition:

That there be taken into consideration the decision presented on the 21st June past, referring to the petitions offered for grants of land by citizens Joaquin Bernal and Juan Alvirez.

Monterey, July 5, 1834.

JOSE J. ORTEGA.
CARLOS ANT'E CARILLO.
JOSE A. ESTUDILLO.
JOSE CASTRO.

Report having been rendered to the M. E. deputation, in session this day, with the decisions presented the 21st of June and 5th of July, it approved the two propositions with which the first concluded, whose tenor is as follows:

1st. The grant is approved made by the senor civil chief in favor of the cit'n Don Alvirez of the lands of the Laguna Seca, together with the parcel of ground which he has cultivated and improved up to this day by the trench which he undertook at his own cost.

2d. Also is approved the grant made by the same senor civil chief of the lands of Santa Teresa, in favor of the cit'n Joaquin Bernal, withholding from him only the parcel of ground previously adjudged to the aforesaid cit'n Juan Alvirez, according to the assignment of the preceding article.

And therefor let the despatch be returned to the S. civil chief for his disposal.

Monterey, July 8, 1834.

JOSE FIGUEROA, *Pres.*
MARIA A. MALDONADO, *Sec'y.*

MONTEREY, *July* 11, 1834.

Having seen the vote of the M. Ex. territorial deputation, dated the 8th inst., in confirmation of the ranchos of Santa Teresa and Laguna Seca claimed by the cit'n Joaquin Bernal and the citizen Juan Alvirez, let their respective titles be drawn up and recorded in the proper book, and intrusted
480 to the interested parties for their security and other purposes. Senor Don Jose Figueroa, general of brigade, inspector general commandant, and sup'r civil chief of the territory of California, so commanded, decreed, signed.

Witness :

JOSE FIGUEROA.
AUGUSTIN V. ZAMORANO, *Sec'y.*

Jose Figueroa, brigadier general of the Mexican republic, inspector general commandant, and civil chief superior of the territory of Alta California.

Inasmuch as the citizen Joaquin Bernal, Mexican by birth, has claimed for his personal benefit and that of his family, the estate known by the name of Santa Teresa, bounded by the ranchos of Laguna Seca and Narvaeze brook of the Coyote, and hills of Las Lagrimas and San Juan, the documents and verifications required by law having been previously completed, using the authority in me vested, and in compliance with the vote of the M. Ex-territorial deputation, dated the 8th of the current month, approving the

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ancho being adjacent to that of citizen Alvirez, said Alvirez, although having been remonstrated with by me at various times that he should not take for himself land of that belonging to me, has always insisted on carrying forward his own idea, with several threats, sufficient to disturb the quiet of my family, and some disturbance, as I can prove before your honor. Therefore, and knowing your honor's obligation to preserve peace among the inhabitants of this territory, by means of your well-known prudence, may it seem fit that the said Alvirez may cease to disturb my property, con-
475 fining himself to what alone belongs to him. Otherwise, senor and superior chief, we expose ourselves to trouble your attention, prejudicial to both, by his unjust threats. Therefore, I again beg your honor that in my submission of what I represent you may graciously decree as your wise penetration may see fit in accordance with justice, which favor I hope from your well-known goodness. All which I swear is not from malice, and otherwise as necessary, &c.

Monterey, June 4, 1834.

JOAQUIN BERNAL.

MON'Y, *June* 6, 1834.

Present to the party Juan Alvirez for the term of three days.

FIGUEROA.

Most excellent senor:

The commissioners of colonization and vacant lands, who are acquainted with the points of this matter, and, as your ex'y has intrus ed to them, on proceeding to the examination of the case between citizens Juan Alvirez and Joaquin Bernal, as appears in the dispatch and copy of both parties in question, has considered attentively the points of law of each party, and having seen the pretensions of both, consider that on the part of Don
476 Alvirez, although his plan does not include the parcel of ground under cultivation and fertilized by a trench of water at his expense, which he occupies, yet, for having done this, he already obtains a right to it; and, moreover, for having now petitioned in form as appears in his memorial of the 12th May last, and this grant the commissioners is inclined to accede to, for the reason above expressed, bearing in mind the grants made by the senor sup'r civil chief, of the estates of Laguna Seca to said Alvirez according to his plan, and of Santa Teresa to cit'n Bernal. As it is, the effect which is left to be understood cannot hold in all its parts for what has been said. The commissioners have thought best to smooth over all obstacles, and to present the question advanced to the deliberation your ex'y, as in effect they do in the following propositions:

1st. The grant is approved made by the senor civil chief in favor of citizen Don Alvirez, of the lands of Laguna Seca, together with the par-
477 cel of ground which he has under cultivation and watered to this date by the trench of water which he undertook at his own expense.

2d. Is approved, also, the grant made (paper torn) of the lands of Santa Teresa (paper torn off) withholding from him only the parcel of improved land adjudged finally to the said citizen Don Alvirez, according to the approbation of the preceding article.

Monterey, 21 June, 1834.

JOSE A. ESTUDILLO.
CARLOS ANT'O CARRILLO.
JOSE CASTRO.

Most excellent sir:

The commissioners of colonization and vacant lands, to whom was referred the despatch of citizens Agustin Bernal and Juan Alvirez, for the purpose of amending the decision which it presented at the session of the 3d of the

current month, well informed of what has been done up to this time, and that it has decided concerning the particular case as appears at the session of the 21st of last month, do not doubt that it ought to ap-
478 prove that as being in everything in accordance with the mind of the commissioners, without doing it from the agreement which the interested parties finally presented to the senor civil chief, and which also passed to the commission. Therefore, it presents to the most excellent deputation for their deliberation the following proposition:

That there be taken into consideration the decision presented on the 21st June past, referring to the petitions offered for grants of land by citizens Joaquin Bernal and Juan Alvirez.

Monterey, July 5, 1834.

JOSE J. ORTEGA.
CARLOS ANT'E CARILLO.
JOSE A. ESTUDILLO.
JOSE CASTRO.

Report having been rendered to the M. E. deputation, in session this day, with the decisions presented the 21st of June and 5th of July, it approved the two propositions with which the first concluded, whose tenor is as follows:

1st. The grant is approved made by the senor civil chief in favor of the cit'n Don Alvirez of the lands of the Laguna Seca, together with the parcel of ground which he has cultivated and improved up to this day by the trench which he undertook at his own cost.

2d. Also is approved the grant made by the same senor civil chief of the lands of Santa Teresa, in favor of the cit'n Joaquin Bernal, withholding from him only the parcel of ground previously adjudged to the aforesaid cit'n Juan Alvirez, according to the assignment of the preceding article.

And therefor let the despatch be returned to the S. civil chief for his disposal.

Monterey, July 8, 1834.

JOSE FIGUEROA, *Pres.*
MARIA A. MALDONADO, *Sec'y.*

MONTEREY, *July* 11, 1834.

Having seen the vote of the M. Ex. territorial deputation, dated the 8th inst., in confirmation of the ranchos of Santa Teresa and Laguna Seca claimed by the cit'n Joaquin Bernal and the citizen Juan Alvirez, let their respective titles be drawn up and recorded in the proper book, and intrusted
480 to the interested parties for their security and other purposes. Senor Don Jose Figueroa, general of brigade, inspector general commandant, and sup'r civil chief of the territory of California, so commanded, decreed, signed.

Witness :

JOSE FIGUEROA.
AUGUSTIN V. ZAMORANO, *Sec'y.*

Jose Figueroa, brigadier general of the Mexican republic, inspector general commandant, and civil chief superior of the territory of Alta California.

Inasmuch as the citizen Joaquin Bernal, Mexican by birth, has claimed for his personal benefit and that of his family, the estate known by the nam- of Santa Teresa, bounded by the ranchos of Laguna Seca and Narvaeze brook of the Coyote, and hills of Las Lagrimas and San Juan, the docu, ments and verifications required by law having been previously completed, using the authority in me vested, and in compliance with the vote of the M. Ex-territorial deputation, dated the 8th of the current month, approving the

grant of said estate, decreed from the 10th of June last, to the said
481 citizen Joaquin Bernal, (with the exceptions of the parcel of ground which the citizen Juan Alvirez has under cultivation,) in the name of the Mexican nation, I confer upon him the said estate, declaring it his property by these presents, without prejudice to the public benefit as regards pasturage, wood, water, timber, &c., of the inhabitants of the pueble of S. Jose Guadalupe, and liable to pay such sum as may be assessed in case it should turn out to belong to the inhabitants of said pueb'o when its boundaries are regulated, and to the following conditions:

1st. That he shall submit to those which the law to be established for the distribution of unclaimed lands shall direct, and in the mean time neither the grantee nor his heirs shall have power to divide nor aliante the grant, nor impose rent, entail bond, mortgage, or other encumbrance, even in case of distress, nor pass it into mortmaine.

2d. He shall have a right to enclose it, provided he does no injury
482 to passage ways, roads, and lanes. He shall enjoy it freely and exclusively, devoting it to such use and cultivation as he may see fit, but within one year at the furthest he shall erect a house and it shall be inhabited.

3d. Immediately thereupon he shall solicit the proper magistrate to give him legitimate possession in virtue of this despatch, by whom the boundaries shall be ascertained, at the limits of which, besides landmarks, he shall place useful fruit or forest trees.

4th. The estate granted is a cattle farm, more or less, as is explained in the plan attached to this instrument. The judge who shall give possession shall cause it to be measured according to ordinance, the residue remaining to the nation for its proper uses.

5th. If he shall violate these conditions, he shall loose his right to the estate, and be incapable of receiving others.

Therefore, I order that this title, being firm and valid, shall be recorded in the proper book, and then delivered to the interested party for his
483 security and other purposes.

Given in Monterey on the 11th of July, 1834.

JOSE FIGUEROA.

AUGUSTIN V. ZAMORANO, *Sec'y.*

Jose Figueroa, general of brigade of the Mexican republic, inspector general commandant, and superior civil chief of the territory of Alta California.

Inasmuch as Juan Alvirez, Mexican by birth, has laid claim for his personal benefit and that of his family, to the estate known by the name of Laguna Seca, bounded by the ranchos of Santa Teresa and San Francisco de las Llagas, and lateral chains of hills, the proper documents and verifications required by law having been previously completed, acting in virtue of the authority in me vested, and in conformity with the vote of the M. Ex't territorial deputation on the 8th of the current month, approving the grant of the said estate of Laguna Seca, and a'so what he has under cultivation in the lands of Santa Teresa, decreed on the 12th of June last, to the said

D. Juan Alvirez, in the name of the Mexican nation, I confer upon
484 him said estate, declaring it his property by these presents, subject to pay such sum as may be imposed, should the parcel of ground that he has under cultivation in Santa Teresa turn out to belong to the inhabitants of the pueblo of San Jose Guadalupe, when its boundaries are settled, and to the following conditions:

1st. That he shall submit to those which the law to be formed for the distribution of unclaimed lands shall establish, and that in the mean time

neither the grantee nor his heirs shall have power to divide nor alienate the grant, nor attach, rent, entail, bond, mortgage, or other incumbrance, even in case of distress, nor pass it into mortmain.

2d. He shall have a right to enclose it, provided he does no injury to passages, roads, and lanes, he shall enjoy it freely and exclusively, devoting it to such use and cultivation as he may see fit. but within one year at furthest he shall erect a house, which shall be inhabited.

3d. Immediately thereupon he shall solicit the proper judge to
485 give him legal possession in virtue of this despatch, by whom the boundaries shall be ascertained, at the limits of which he shall place besides landmarks useful fruit and forest trees.

4th. The estate mentioned is a square cattle farm, more or less, as explained in the plan attached to this instrument. The judge who may give possession shall cause it to be measured according to ordinance, in order to mark out its boundaries, the residue remaining to the nation for its appropriate uses.

5th. If he shall violate these conditions, he shall lose his right to the estate, and be prohibited from any other.

Wherefor, I order that this title, being good and valid, shall be recorded in the proper book, and delivered to the interested party for his security and other purposes.

Given in Monterey this twenty-second of July, one thousand eight hundred and thirty-four.

JOSE FIGUEROA.
AUGUSTIN V. ZAMORANA, *Sec'y.*

486 Endorsed: Filed Febr'y 15, 1860.

W. H. CHEVERS, *Clerk.*

487 *Translation of archive testimony No.* 3.

Most excellent senor commandant gen'l and political chief of the two Californias :

I, Augustin Narbaez, resident of the pueblo of San Jose de Guadalupe and located for twenty years upon the place formerly called "El Ranchito," and by me named "San Juan Bautista," as best I may in law, present myself and say that in the year 1837 I solicited of the Sor. Governor Don Juan Bautista Alvarado the ownership of the aforementioned place, by means of a petition accompanied by a plat, (diseno,) which petition had not obtained his approval the year prior to 1832. I made a new petition to know what opposition was made, and have not obtained to this date, that I should be imformed whether there was or not admitted the petition which I presented, for which purpose I address your excellency, and supplicate that you decree in my favor that which you may deem just.

Excellent s'or, having a very large family, I need a place suitable to fix my property upon, so that should God remember me, my wife and children
488 might enjoy some tranquility, and be free from injury. If your excellency should sympathize with me, I shall simply make known my few services. I served fifteen years in the honorable profession of arms. I founded the missions of Santa Cruz, Santa Clara, San Jose, and that of San Francisco, in which there were reconquered more than 2,000 Indians; moreover, it is shown by different chiefs that I have brought up my children in the service of the arms of the country. If your honor considers to be just these claims which I set forth, I hope that you will attend to my case as you may deem proper, considering my representations and inquiring into the reason why I was not attended to. Inasmuch as your excellency has come to

this unfortunate country, and will do justice, as your kindness prompts you, I feel obliged to make this request. Therefore, I humbly beg and ask of your excell'y that you will accede to my demand, for which favor I shall remain forever grateful, hoping that you will be pleased to allow it on this common paper, not having any in this place of the proper seal. I swear this not to be done in malice, and for all necessary purposes, &c.

San Juan Bautista, Oct'r 5th, 1843.

(Signed) AGUSTIN NARBAEZ.

MONTEREY, *Novemb'r 22d*, 1843.

Let the secretary of state make his report, taking previously all the necessary informations he may need, obliging the party to annex the sheet of stamped paper that can be bought in this place.

(Signed) MICHELTORENA.

Stamp fourth. Two reals.

[SEAL.] Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the year 1843.

(Signed) MICHELT'A.

(Signed) MANUEL CASTANARES.

Having annexed the sealed paper, let this expediente be referred to the magistrate of the pueblo of San Jose, that he may report on its con-
490 tents, having cited Dn. Maximo Martinez to make known the particulars he knows of, and having accomplished all that is necessary, let it be returned to the secretary's office for the completion of to-day's decree.

Monterey, 22d Nov'r, 1843.

(Signed) MAN'L JIMENO.

In virtue of the preceding superior decree, this judgeship has summoned to appear Don Agustin Narbaez and Don Maximo Martinez, who have determined upon the lines and boundaries of the land to which they each agree in their petition; but as this land has been recognised to belong to the adjoining mission of Sta. Clara, its father minister shall say if it is injured, or if there is no objection apart of that which resulted from the petition of the interested party; that a third portion of the land which he solicits belongs to this pueblo, and that he holds it under a loan. For all of which it does not seem to me proper that he should enter in possession.

Pueblo of San Jose, Dec'r 19th, 1843.

(Signed) SALVIO PACHECO.

491 Most excellent s'or governor:

The interested party in the preceding petition is one of the first settlers of this country; he has a good deal of property on the land to which he refers; therefore he occupies it for more than twenty years, with the consent of the old father ministers of Sta. Clara and of the authorities of the pueblo of S. Jose, and if in such a length of time he has not obtained his titles, it is on account of the many various changes his papers have suffered in his the possession of the same interested party; that he, the petitioner, is entitled to the favor he asks, as much for the services which it is publicly known he has rendered since the foundations of various missions, as for his innumerable family, with the only restriction not to comprehend in the concession the land cultivated by the inhabitants of the pueblo in the direction of the ("sausal") willow grove. But the determination of your excellency will be the best.

Monterey, 18th Jan'y, 1844.

(Signed) MAN'L JIMENO.

492 MONTEREY, *Jan'y 13th*, 1844.

For settling all questions in future, and to terminate all difficulty that might be set up, let the M. R. F minister of the mission of Sta. Clara make his report and return it to this departmental government.

(Signed) MICHELTORENA.

Most excellent s'or governor :

Pursuant to the preceding superior decree and petition of the S'or D. Agustin Narvaez, as in it he has not marked out any land, and simply refers to his old petitions and plats with which he accompanies said documents; he says in his petition that he did not know of the decree, from which he inferred that it was still to be found in the office of secretary of state. Therefore I cannot make a just estimate of said land solicited in fee simple by the said Narvaez ; moreover, you will find that on that day was made the plan of the lands of this mission, which I transmitted to your excellency through him, with the old documents of the party interested. I be-
493 lieve that your excellency will be able to adjust this question, attending to justice, to the merits and great services rendered to this department by said s'or; but at the same time you might also be attending to the rights of this mission, which if in other times did own lands enough to give some up without injury, at the present day they are so limited as hardly to number any; and moreover, that those which the mission still recognizes as hers are disputed by the S'ors D. Fran'co Estrada and D. Jose Noriega, who obtain them by misrepresentations, which no doubt they made to the senor your excellency's predecessor, D. Juan Bautista Alvarado, would have seen fit not to concede them; moreover, having already shown this and the manifest injury of the rights of the community of Santa Clara, if the s'ors before referred to should be attended to in the right which they alleged they have, and is given solely in a title obtained by subreption in this case, which is the portion of lands which was left for the benefit of those Indians
494 worthy of and entitled to so many titles to their lands that God and nature have given them—those men who, I venture to say, are the first who, in the department of Californias, have rendered in all times to the government and to the nation useful and true services, personal and pecuniary. Yes, most excell't s'or, the interest of the Indians, provided they were the only citizens in California, have always been to render to the government, without remuneration whatever, all kinds of services and on different occasions, even with sacrifice and merit, as I think, and can they not allege in their favor the instance of the other classes who have always been recompensed by the government, which if some time using of the well know right that belongs to the supreme authority has placed indirect contributions in this department, without burthening the interests of those who call themselves citizens, but those of the true citizens, the Indians who are wanting of this prerogative, those now boasting of the rights they enjoy, believe themselves alone entitled to receive favors from the government, but never with the obligation to complete the title of such citizens,
495 unless it is in what is left, or, for the least guaranties profits ; but in that which is left, although it be a "half real" for every hide that is shipped, then are offered impediments which they cannot remove, notwithstanding all the sacred rights of citizens, whereby this mode of contribution alone seems obligatory upon the most unfortunate and poorest class, which is the Indian class.

There is no doubt, most excellent s'or, that there are good citizens in California, even in high position, and as one of those is the S'or D. Agustin Narvaez, entitled certainly to be attended to in his petition, that there may be conceded to him not only the portion of the mission which he has occu-

pied, but also the land which belongs to the community of the pueblo ; therefore said S'or Narvaez neither is, nor has been, of either class of individuals who do not leave a moment's rest to the government in petition for lands to the injury of the legitimate proprietors to make traffic of them soon afterwards, certain that, in making new petitions founded on many imagi-
496 nary merits, and consequently wanting of services, that with these they will not lose the hopes of obtaining another good piece of land, although they have not got the requisite to occupy it ; but profit is always left with the first trafficker who presents himself.

I have dwelt on this longer than I thought ; your excell'cy will be so kind as to tolerate my lengthiness on this subject. Moreover, in behalf of my constituents, it seems to me I have said nothing but what is allowed ; your excell'cy but what is allowed ; your excell'y, with your wonted prudence, will do in justice all that is right, &c.

S'ta Clara, Jan'y 30th, 1844.

Most excellent s'or.

(Signed) FR. JESUS MA. VASQ'Z DE MERCADO.

MONTEREY, *March* 1*st*, 1844.

In the office of the secretary it seems that in making search for the antecedents they will show the extent of the land solicited as represented by the petitioner, and that which can be considered in justice, comprising his present merits and the anterior information of the most R. F. minister.

(Signed) MICHELTORENA.

497 Seal fifth. Half real.

Provisionally authorized by the maritime custom-house of the port of Monterey, in the department of the Californias, for the years 1844 and 1845.

MICHELTORENA.
PABLO DE LA GUERRA.

Most excell't s'or governor :

In the office of the secretary there appears no antecedents; but from what has been done in this expediente, it seems there is no impediment to grant two ("sitios de ganado mayor") square leagues. The superior judgment of your excellency will direct that which is best.

Monterey, 21st March, 1844.

(Signed) MAN'L JIMENO.

MONTEREY, *March* 23*d*, 1844.

I comply in this.

(Signed) MICHELTORENA.

MONTEREY, *March* 30*th* 1844.

Considering the petition with which begins this expediente, the preceding informations with all that which is presented and found in conformity with the laws and regulations appertaining to the matter, I declare Dn.
498 Agustin Narvaez owner in fee of the place known by the name Sr. J'n Bautista, bounded by the rancho of the S'ores Bernales, by that of Justo Larios, by the (sierras) range of mountains, by the place of the Hernandez, and by the pueblo of San Jose, not going beyond its (alisal) alder tree, to the extent of two square leagues. Let the corresponding title be issued, let it be recorded in the respective book, and let it be dispatched to the most excellent departmental assemby for its approbation.

The most exc'llt S. governor, brigadier general of the Mexican army, ad-

jutant general of the staff of the same, thus has ordered, decreed, and signed.

The citizen Man'l Micheltorena, brigadier general of the Mexican army, adjutant general of the staff of the same, governor, commandant general, and inspector of the department of the Californias:

Whereas the citizen Agustin Narvaez has solicited, for his personal benefit and that of his family, two ("sitios de ganado mayor") square
499 leagues within the land named S'n J'n Bautista, bounded by the rancho of the S'rs Bernales, by that of Justo Larios, by (la sierra) the range of mountains, by the place of the Hernandez, and by the pueblo of San Jose, not going beyond the (alisal) alder tree that belongs to this mission; the proper investigations and corresponding steps belonging thereto being previously complied with, as ordered by laws and regulations; by virtue of the authority in me vested, in the name of the Mexican nation, I have determined to concede to him the mentioned land, declaring unto him the ownership thereof by these presents, he subjecting himself to the approbation of the most excellent departmental assembly, and under the following conditions:

1st. He shall not sell it, alienate it, hypothecate it, subject it to taxation, bond, entail, nor to any incumbrance whatsoever.

2d. He may enclose it without injuring the crossings, roads, and servitudes; he shall enjoy it freely and exclusively, destining it to the use or culture; that one year he shall build a house and it shall be inhabited.

500 3d. He shall solicit of the respective magistrate to give him the juridicial possession in virtue of this decree, by whom shall be marked out the boundaries, in which, besides the landmarks, he shall place some fruit trees or forest trees of some utility.

4th. The land of which donatic n is made is of two square leagues, more or less, as shown by the respective (diseno) plat. The magistrate who shall give the possession shall cause it to be measured conformably to ordinance, the (sobrante) overplus that may result remaining to the nation for its convenient uses.

5th. If he contravene these conditions, he shall lose his right to the land, and it shall be denounceable by another.

Therefore, I order that these presents serving him as a title, and being held as firm and valid, note be made of it in the corresponding book, and it be delivered to the interested party for his security and other ends.

Given in Monterey the 30th of April, 1844.

501 MAN'L MICHELT'A.
MAN'L JIMENO, *Secretary.*

Record of this decree has been made in the corresponding book, at page 8.
JIMENO FRAN'CO ARCE.

I certify the above "translation" to be a true and faithful translation from the duly authenticated "fac simile" "expediente" filed in this case.
(Signed) GEO. FISHER, *Sec'y.*

Endorsed: Filed Feb'y 15, 1860.
W. H. CHEVERS, *Clerk.*

503 *Translation of archive testimony No.* 4.

Ejidos.

In none of the poblaciones, with the exception of Monterey, have there been marked out the common (ejidos) and the municipal lands (terrenos de

propios) which are to be assigned to each municipality as a legal fund, for which reason the government in making concessions of lands in the neighborhood (of pueblos) has adjudicated them very provisionally, awaiting said arrangement, and in relation to this matter, the necessary information has been repeatedly asked.

Your excellency, in view of all this, and in virtue of the authority conceded to you in part 1st, of article 45, of the said law, and with the consent of the governor, will arrange the matter as may be próper and convenient.

Endorsed: Filed Feb'y 15, 1860.

W. H. CHEVERS, *Clerk.*

504 *Order granting appeal to U. S. Supreme Court.*

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Thursday, the 16th day of February, in the year of our Lord one thousand eight hundred and sixty, for the trial of land cases.

Present: The Honorable M. Hall McAllister, circuit judge.

THE UNITED STATES
v.
MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE. } No. 419.

In this case, on application of Tully A. Wise, esq., acting U. S. attorney, made in open court, it is ordered by the court that an appeal in behalf of the United States from the final decision of this court rendered in said cause at the June term, 1859, be, and the same here by is, granted; and that a certified transcript of the pleadings, evidence, depositions, and proceedings in the said cause, be sent to the Supreme Court of the United States with-
505 out delay.

M. HALL McALLISTER,
Circuit Judge.

Endorsed: Filed February 16, 1860.

W. H. CHEVERS, *Clerk.*

Order granting appeal on behalf of the U. S.

At a stated term of the district court of the United States of America for the northern district of California, held at the court-room in the city of San Francisco, on Friday, the 15th day of April, in the year of our Lord one thousand eight hundred and sixty-four.

Present: The Honorable Ogden Hoffman, district judge.

THE UNITED STATES
v.
MAYOR AND COM. COUNCIL OF CITY OF SAN JOSE. } No. 419.

In this case, on the application of Wm. H. Sharp, esq., United States
506 attorney made in open court, it is ordered by the court that an appeal in behalf of the United States from the final decision of this court, rendered in said cause at the June, 1859, term, be, and the same is hereby, granted; and that a certified copy of the pleadings, evidence, depositions, and proceedings in the said cause be sent to the Supreme Court of the United States without delay.

Endorsed: Filed April 15, 1864.

W. H. CHEVERS, *Clerk.*

Citation.

In the district court of the United States for the northern district of California.

THE UNITED STATES
vs.
MAYOR AND COMMON COUNCIL OF THE CITY OF SAN JOSE.

To J. B. Crockett, esq., counsel for claimant, greeting:

507 You are hereby cited and admonished to be and appear at a Supreme Court of the United States, to be holden at Washington, on the first Monday in December next, pursuant to an order of appeal granted on the fifteenth day of April, A. D. 1864, in open court, by the district judge of the district court of the United States for the northern district of California, in a certain suit wherein the United States are plaintiffs and the mayor and common council of San Jose are defendants, on appeal to show cause, if any there be, why the decision in the said appeal mentioned should not be corrected, and speedy justice should not be done to the parties in that behalf.

Witness my hand and seal at San Francisco, this fifteenth day of April, in the year of our Lord one thousand eight hundred and sixty-four.

OGDEN HOFFMAN, [SEAL.]
Dist. Judge.

508 Endorsed: Service of a copy of the within this day admitted. San Francisco, April 18th, 1864.

J. B. CROCKETT,
Attorney for Claimants.

Filed April 18, 1864.

W. H. CHEVERS, *Clerk.*

509 I, Delos Lake, district attorney of the United States for the northern district of California, by virtue of the power vested in me by law, to wit, under the act of Congress of the United States entitled "An act relative to appeals to the Supreme Court of the United States," approved August 6, 1861, do hereby certify that the annexed and foregoing five hundred and eight (508) written pages, together with the maps also annexed hereto, exhibit a full, true, and correct transcript of the record and proceedings in the case of the United States *vs.* the Mayor and Common Council of the City of San Jose, and numbered 419 on the docket of land cases in the district court of the United States for the northern district of California, and that the original papers and maps from which the said transcript has been made were duly delivered to me by the clerk of said district court at my request, for the purpose of having them transcribed, and the same are of record and on file in the clerk's office of said district court.

In testimony whereof, I have hereto set my hand and private [SEAL.] seal at San Francisco, in the district aforesaid, this day of October, A. D. 1864, and of our independence the 89th.

DELOS LAKE,
U. S. attorney, Northern Dist. Cal'a.

Filed November 19, 1864.

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